THE

LAND ACQUISITION MANUAL

For official use only

©
GOVERNMENT OF MADRAS
1961

PRINTED BY THE CONTROLLER OF STATIONERY AND PRINTING, MADRAS, ON BEHALF OF THE GOVERNMENT OF MADRAS
1960

148467
600 008

INTRODUCTION.

It is a well-established principle that all statutory provisions and rules having the force of law should be strictly complied with, and that the burden of proof of compliance rests upon those who claim statutory powers or base their actions upon the exercise of statutory provisions. Instances have from time to time come, to the notice of the Government in which irregularities and illegalites vitiating the proceedings have been committed by officers entrusted with land acquisitionwork. Inexperienced officers, especially, are apt to overlook legal formalities and technical details of procedure. The Government have therefore prepared this Manual of information relating to proceedings under the Land Acquisition Act for the use of the officers responsible for those proceedings. The scope of the Manual is to present in a form readily available for reference by those officers, information relating to general principles and the details of the procedure to be followed at each stage of the proceedings with a view to help them to avoid illegalities and irregularities.

Table of Contents.

		PAGES.
PART I.	The Land Acquisition Act, 1894 (I of 1894) as amended by Madras Act XXI of 1948 and Act XII of 1953.	1–23
PART II.	Standing Orders of the Board of Revenue, Nos. 90 and 91.	25–72
PART III.	General principles and Procedure	73–146
PART IV.	Appendices	147–286

L.B.S 8

H.C., S.C.'s Office,
Karur.
17.5.62

PART I.

The Land Acquisition Act, 1894, I of 1894,

AS AMENDED BY MADRAS ACT XX1 OF 1948 AND ACT X11 OF 1953.

LAND ACQUISITION MANUAL

PART I.

THE LAND ACQUISITION ACT, 1894 (I of 1894).

AS AMENDED BY MADRAS ACT XXI of 1948 and ACT XII of 1953.

CONTENTS.

PART I.

PRELIMINARY.

SECTIONS.

1. Short title, extent and commencement.
2. [Repealed.]
3. Definitions.

PART II.

ACQUISITION.

Preliminary investigation.

4. Publication of preliminary notification and powers of officers thereupon.
5. Payment for damage.

Objections.

5A. Hearing of objections.

Declaration of intended acquisition.

6. Declaration that land is required for a public purpose.
7. After declaration Collector to take order for acquisition.
8. Land to be marked out, measured and planned.
9. Notice to persons interested.
10. Power to require and enforce the making of statements as to names and interests.

Enquiry into measurements, value and claims, and award by the Collector.

11. Enquiry and award by Collector.
12. Award of Collector when to be final.
13. Adjournment of enquiry.
14. Power to summon and enforce attendance of witnesses and production of documents.
15. Matters to be considered and neglected.

Taking possession.

16. Power to take possession.
17. Special powers in cases of urgency.

PART III.

REFERENCE TO COURT AND PROCEDURE THEREON.

SECTIONS.

18. Reference to Court.
19. Collector's statement to the Court.
20. Service of notice.
21. Restriction on scope of proceedings.
22. Proceedings to be in open Court.
23. Matters to be considered in determining compensation.
24. Matters to be neglected in determining compensation.
25. Rules as to amount of compensation.
26. Form of awards.
27. Costs.
28. Collector may be directed to pay interest on excess compensation.

PART IV.

APPORTIONMENT OF COMPENSATION.

29. Particulars of apportionment to be specified.
30. Dispute as to apportionment.

PART V.

PAYMENT.

31. Payment of compensation or deposit of same in Court.
32. Investment of money deposited in respect of lands belonging to persons incompetent to alienate.
33. Investment of money deposited in other cases.
34. Payment of interest.

PART VI.

TEMPORARY OCCUPATION OF LAND.

35. Temporary occupation of waste or arable land. Procedure when difference as to compensation exists.
36. Power to enter and take possession, and compensation on restoration.
37. Difference as to condition of land.

PART VII.

ACQUISITION OF LAND FOR COMPANIES.

38. Company may be authorized to enter and survey.
38A. Industrial concern to be deemed company for certain purposes.
39. Previous consent of appropriate Government and execution of agreement necessary.
40. Previous enquiry.
41. Agreement with appropriate Government.
42. Publication of agreement.
43. Sections 39 to 42 not to apply where Government bound by agreement
44. How agreement with Railway Company may be proved.

PART VIII.

MISCELLANEOUS.

SECTIONS.

45. Service of notices.

46. Penalty for obstructing acquisition of land.

47. Magistrate to enforce surrender.

48. Completion of acquisition not compulsory, but compensation to be awarded when not completed.

49. Acquisition of part of house or building.

50 Acquisition of land at cost of a local authority or company.

51. Exemption from stamp-duty and fees.

52. Notice in case of suits for anything done in pursuance of Act.

53. Code of Civil Procedure to apply to proceedings before Court.

54. Appeals in proceedings before Court.

55. Power to make rules.

ACT NO. 1 OF 1894.

An Act to amend the law for the acquisition of land for public purposes and for companies.

2nd February 1894.

Whereas it is expedient to amend the law for the acquisition of land needed for public purposes and for companies and for determining the amount of compensation to be made on account of such acquisition; It is hereby enacted as follows :—

PART I.

Preliminary.

Short title, extent and commencement.

1. (1) This Act may be called the Land Acquisition Act, 1894 ;

(2) It extends to the whole of India except Part B States; and

(3) It shall come into force on the first day of March 1894.

2. [Repeal.] *Repealed partly by the Repealing and Amending Act,* 1914 (10 *of* 1914), *section* 3, *and Schedule II, and partly by the Repealing Act,* 1938 (*I of* 1938). *Section* 2 *and schedule.*

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(*a*) the expression "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;

(*b*) the expression "person interested" includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land;

(*c*) the expression "Collector" means the Collector of a district, and includes a Deputy Commissioner and any officer specially appointed by the appropriate Government to perform the functions of a Collector under this Act;

(*d*) the expression "Court" means a principal Civil Court of original jurisdiction, unless the appropriate Government has appointed (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform the functions of the Court under this Act;

(*e*) the expression "Company" means a company registered under the *Indian Companies Act, 1882, or under the (English) Companies Acts, 1862 to 1890, or incorporated by an Act of Parliament [2][of the United Kingdom] or by an Indian law, or by Royal Charter or Letters Patent [3][and includes a

6 of 1882.

*See now the Indian Companies Act, 1913 (7 of 1913).

2. Inserted by A.O. 1950.

3 Inserted by Act. 17 of 1919, Section 2.

21 of 1860 2 of 1912. society registered under the Societies Registration Act, 1860, and a registered society within the meaning of the Co-operative Societies Act, 1912];

[2][(*ee*) the expression "appropriate Government" means, in relation to acquisition of land for the purpose of the Union, the Central Government, and, in relation to acquisition of land for any other purposes, the State Government];

(*f*) the expression "public purpose" includes the provision of village-sites in districts in which the appropriate Government shall have declared by notification in the official Gazette that it is customary for the Government to make such provision; and

(*g*) the following persons shall be deemed persons "entitled to act" as and to the extent hereinafter provided (that is to say)—

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted if free from disability;

a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and whether of full age or not, to the same extent as if she were unmarried and of full age; and

the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted:

Provided that—

(i) no person shall be deemed "entitled to act" whose interest in the subject-matter shall be shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act;

(ii) in every such case the person interested may appear by a next friend or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof;

14 of 1882 (iii) the provisions of [1]chapter XXXI of the Code of Civil Procedure shall, *mutatis mutandis*, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act; and

(iv) no person "entitled to act" shall be competent to receive the compensation-money payable to the person for whom he is entitled to act unless he would have been competent to alienate the land and receive and give a good discharge for the purchase-money on a voluntary sale.

[1] See now the Code of Civil Procedure, 1908 (5 of 1908), Sch. I, order XXXII.

[2] Inserted by the A.O. 1950.

PART II

Acquisition.

Preliminary investigation.

*4. (1) Whenever it appears to the appropriate Government that land in any locality [is needed or] is likely to be needed for any public purpose, a notification to that effect shall be published in the official Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality.

Publication of preliminary notification and powers of officers thereupon.

(2) Thereupon it shall be lawful for any officer, either generally or specially authorized by such Government in this behalf, and for his servants and workmen,—

to enter upon and survey and take levels of any land in such locality;

to dig or bore into the sub-soil;

to do all other acts necessary to ascertain whether the land is adapted for such purpose;

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon;

to mark such levels, boundaries and line by placing marks and cutting trenches; and

where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle:

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

5. The officer so authorized shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector or other chief revenue-officer of the district, and such decision shall be final.

Payment for damage.

[1] *Objections.*

5-A. (1) Any person interested in any land which has been notified under section 4, sub-section (1), as being needed or likely to be needed for a public purpose or for a company may, within thirty days after the issue of the notification, object to the acquisition of the land or of any land in the locality, as the case may be.

Hearing of objections.

[1] Inserted by S. 3, ibid. [2] Inserted by Act 38, of 1923, S. 2

* As to amendments with which this section should be read when land is required for the purposes of the company, see section 38 (2), *infra*.

(2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard either in person or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, submit the case for the decision of the appropriate Government, together with the record of the proceedings held by him and a report containing his recommendations on the objections. The decision of the appropriate Government on the objections shall be final.

(3) For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act.

Declaration of intended acquisition.

Declaration that land is required for a public purpose.

6. (1) Subject to the provisions of Part VII of this Act 7 [1][when the appropriate Government is satisfied, after considering the report, if any, made under section 5-A, sub-section (2),] that any particular land is needed for a public purpose, or for a company, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorized to certify its orders:

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a company, or wholly or partly out of public revenues or some fund controlled or managed by a local authority.

(2) The declaration shall be published in the official Gazette, and shall state the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a company, as the case may be; and, after making such declaration, the appropriate Government may acquire the land in manner hereinafter appearing.

After declaration Collector to take order for acquisition.

7. Whenever any land shall have been so declared to be needed for a public purpose or for a company, the appropriate Government, or some officer authorized by the appropriate Government in this behalf, shall direct the Collector to take order for the acquisition of the land.

Land to be marked out, measured and planned.

8. The Collector shall thereupon cause the land (unless it has been already marked out under section 4) to be marked out. He shall also cause it to be measured, and if no plan has been made thereof, a plan to be made of the same.

Notice to persons interested.

9. (1) The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the

[1] Subs. by Act 38 of 1923. S. 4, for "whenever it appears to the L.G.".

land, and that claims to compensation for all interests in such land may be made to him.

(2) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, and their objections (if any) to the measurements made under section 8. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

(3) The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside or have agents authorized to receive service on their behalf, within the revenue-district in which the land is situate.

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post
14 of 1866 in a letter addressed to him at his last known residence, address or place of business and registered under Part III of the [1]Indian Post Office Act, 1866.

Power to require and enforce the making of statements as to names and interests.

10. (1) The Collector may also require any such person to make or deliver to him, at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits (if any) received, receiveable on account thereof for three years next preceding the date of the statement.

(2) Every person required to make or deliver a statement
45 of 1860 under this section or section 9 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

Enquiry into measurements, value and claims, and award by the Collector.

Enquiry and award by Collector.

11. On the day so fixed, or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given under section 9 to the measurements made under section 8, and into the value of the land [2][at the date of the publication of the notification under section 4, sub-section (1)], and into the respective interests of the persons claiming the compensation and shall make an award under his hand of—

(i) the true area of the land;

[1] See now the Indian Post Office Act, 1898 (6 of 1898).
[2] Inserted by Act 38 of 1923, S. 5.

(ii) the compensation which in his opinion should be allowed for the land; and

(iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

Award of Collector when to be final.

12. (1) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested.

(2) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

Adjournment of enquiry.

13. The Collector may, for any cause he thinks fit, from time to time, adjourn the enquiry to a day to be fixed by him.

Power to summon and enforce attendance of witnesses and production of documents.

14. For the purpose of enquiries under this Act the Collector shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents by the same means, and (so far as may be) in the same manner, as is provided in the case of a Civil Court under the †Code of Civil Procedure. 14 of 1882.

Matters to be considered and neglected.

15. In determining the amount of compensation the Collector shall be guided by the provisions contained in sections 23 and 24.

Taking possession.

Power to take possession.

16. When the Collector has made an award under section 11, he may take possession of the land, which shall thereupon vest absolutely in the Government, free from all encumbrances.

Special powers in cases of urgency.

17. (1) In cases of urgency, whenever the appropriate Government so directs, the Collector, though no such award has been made, may, on the expiration of fifteen days from the publication of the notice mentioned in section 9, sub-section (1), take possession of any waste or arable land needed for public purposes or for a company. Such land shall thereupon vest absolutely in the Government, free from all encumbrances.

* [*Explanation.*—This sub-section shall apply to any waste or arable land, notwithstanding the existence thereon of scattered trees or temporary structures such as huts, pandals or sheds.]

(2) * [In the following cases, that is to say,

(*a*) whenever, owing to any sudden change in the channel of any navigable river or other unforeseen emergency,

* As amended by Madras Act XXI of 1948.

† See now the Code of Civil Procedure, 1908 (5 of 1908).

it becomes necessary for any Railway Administration to acquire the immediate possession of any land for the maintenance of their traffic or for the purpose of making thereon a river-side or ghat station, or of providing convenient connection with or access to any such station,

(b) whenever in the opinion of the Collector it becomes necessary to acquire the immediate possession of any land—

(i) for the purpose of any library or educational institution, or

(ii) for the construction, extension or improvement of—

(A) any building or other structure in any village for the common use of the inhabitants of such village, or

(B) any godown for any society registered or deemed to be registered under the Madras Co-operative Societies Act, 1932, or

Madras Act VI of 1932.

(C) any dwelling house for the poor, or

(D) any irrigation tank, irrigation or drainage channel, or any well, or

(E) any road.]*

the Collector may, immediately after the publication of the notice mentioned in sub-section (1) and with the previous sanction of the appropriate Government enter upon and take possession of such land, which shall thereupon vest absolutely in the Government free from all encumbrances:

Provided that the Collector shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours' notice of his intention so to do, or such longer notice as may be reasonably sufficient to enable such occupier to remove his movable property from such building without unnecessary inconvenience.

(3) In every case under either of the preceding sub-section the Collector shall at the time of taking possession offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them caused by such sudden dispossession and not expected in section 24; and in case such offer is not accepted, the value of such crops and trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions herein contained.

*[1] [(4) In the case of any land to which, in the opinion of the appropriate Government, the provisions of sub-section (1) or sub-section (2) are applicable, the appropriate Government may direct that the provisions of section 5-A shall not apply, and, if it does so direct, a declaration may be made under section 6 in respect of the land at any time after the publication of the notification under section 4, sub-section (1).]

---

* As amended by Madras Act XXI of 1948.

[1] Inserted by Act 38 of 1923, S. 6.

PART III

REFERENCE TO COURT AND PROCEDURE THEREON.

ce to

18. (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made,—

(*a*) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(*b*) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.

tor's ent to urt.

19. (1) In making the reference, the Collector shall state for the information of the Court, in writing under his hand,—

(*a*) the situation and extent of the land, with particulars of any trees, buildings or standing crops thereon;

(*b*) the names of the persons whom he has reason to think interested in such land;

(*c*) the amount awarded for damages and paid or tendered under sections 5 and 17, or either of them, and the amount of compensation awarded under section 11; and

(*d*) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(2) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by, the parties interested respectively.

e of

20. The Court shall thereupon cause a notice specifying the day on which the Court will proceed to determine the objection, and directing their appearance before the Court on that day, to be served on the following persons, namely:—

(*a*) the applicant;

(*b*) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded; and

(c) if the objection is in regard to the area of the land or to the amount of the compensation, the Collector.

21. The scope of the inquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection. Restriction on scope of proceedings.

22. Every such proceeding shall take place in open Court, and all persons entitled to practise in any Civil Court in the State shall be entitled to appear, plead and act (as the case may be) in such proceeding. Proceedings to be in open Court.

23. (1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration— Matters to be considered in determining compensation.

first, the market-value of the land at the date of the publication of the *[1][notification under section 4, sub-section (1)];

secondly, the damage sustained by the person interested, by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof;

thirdly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land;

fourthly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings;

fifthly, if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change; and

sixthly, the damage (if any) *bona fide* resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the Collector's taking possession of the land.

(2) In addition to the market-value of the land as above provided, the Court shall in every case award a sum of fifteen per centum on such market-value, in consideration of the compulsory nature of the acquisition.

24. But the Court shall not take into consideration— Matters to be neglected in determining compensation.

first, the degree of urgency which has led to the acquisition;

secondly, any disinclination of the person interested to part with the land acquired;

---

[1] Subs. by Act 38 of 1923, S. 7, for "declaration relating thereto under S. 6".

thirdly, any damage sustained by him which, if caused a private person, would not render such person liable to suit;

fourthly, any damage which is likely to be caused to th land acquired, after the date of the publication of the declara tion under section 6, by or in consequence of the use to whic it will be put;

fifthly, any increase to the value of the land acquire likely to accrue from the use to which it will be put whe acquired;

sixthly, any increase to the value of the other land of tl person interested likely to accrue from the use to which tl land acquired will be put; or,

seventhly, any outlay or improvements on, or disposal o the land acquired, commenced, made or effected without th sanction of the Collector after the date of the publication o [1][the notification under section 4, sub-section (1)].

Rules as to amount of compensation.

25. (1) When the applicant has made a claim to compensation, pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount so claimed or be less than the amount awarded by the Collector under section 11.

(2) When the applicant has refused to make such claim or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Collector.

(3) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court shall not be less than, and may exceed, the amount awarded by the Collector.

Form of awards.

[2][26 (1)] Every award under this part shall be in writing signed by the Judge, and shall specify the amount awarded under clause *first* of sub-section (1) of section 23, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

[3][(2) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of section 2, clause (2), and section 2, clause (9), respectively, of the Code of Civil Procedure, 1908.]

Costs.

27. (1) Every such award shall also state the amount of costs incurred in the proceedings under this part, and by what persons and in what proportions they are to be paid.

(2) When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector, unless the Court

---

[1] Subs. by Act 38 of 1923, S. 8 for "declaration under S. 6".

[2] S. 26 was renumbered as sub-section (1) of that section by Act 19 of 1921, S. 2.

[3] Ins. by S. 2, Act 19 of 1921.

shall be of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs.

28. If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of four † per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court: Collector may be directed to pay interest on excess compensation.

* Provided that where such possession is taken before the commencement of the Land Acquisition (Madras Amendment) Act, 1953, the foregoing provision shall have effect as if for the rate of four per centum per annum specified therein, the rate of six per centum per annum had been substituted.

PART IV.

APPORTIONMENT OF COMPENSATION.

29. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment. Particulars of apportionment to be specified.

30. When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court. Dispute as to apportionment.

PART V

PAYMENT.

31. (1) On making an award under section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub-section. Payment of compensation or deposit of same in Court.

(2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of

* Inserted by Madras Act XII of 1953.

† The word 'four' was substituted for *the* word 'six' with reference to section 2 of Madras Act XII of 1953.

the compensation in the Court to which a reference under section 18 would be submitted:

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18:

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(3) Notwithstanding anything in this section the Collector may, with the sanction of the appropriate Government instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, the remission of land revenue on other lands held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

(4) Nothing in the last foregoing sub-section shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and [1] competent to contract in respect thereof.

Investment of money deposited in respect of lands belonging to persons incompetent to alienate.

32. (1) If any money shall be deposited in Court under sub-section (2) of the last preceding section and it appears that the land in respect whereof the same was awarded belonged to any person who had no power to alienate the same, the Court shall—

(*a*) Order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited was held, or

(*b*) if such purchase cannot be effected forthwith, then in such Government or other approved securities as the Court shall think fit; and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same be applied—

(i) in the purchase of such other lands as aforesaid; or

(ii) in payment to any person or persons becoming absolutely entitled thereto.

(2) In all cases of moneys deposited to which this section applies the Court shall order the costs of the following matters,

---

[1] As to persons who are competent to contract, *see* S. 11 of the Indian Contract Act, 1872 (9 of 1872).

including therein all resasonable charges and expenses incident thereto, to be paid by the Collector, namely:—

(a) the costs of such investments as aforesaid; and

(b) the costs of the orders for the payment of the interest or other proceeds, of the securities upon which such moneys are for the time being invested, and for the payment out of Court of the principal of such moneys, and of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants.

Investment of money deposited in other cases.

33. When any money shall have been deposited in Court under this Act for any cause other than that mentioned in the last preceding section, the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as it may consider will give the parties interested therein the same benefit therefrom as they might have had from the land in respect whereof such money shall have been deposited or as near thereto as may be.

Payment of interest.

34. When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of † four per centum per annum from the time of so taking possession until it shall have been so paid or deposited:

* Provided that where such possession is taken before the commencement of the Land Acquisition (Madras Amendment) Act, 1953, the foregoing provision shall have effect as if for the rate of four per centum per annum specified therein the rate of six per centum per annum had been substituted.

PART VI.

TEMPORARY OCCUPATION OF LAND.

Temporary occupation of waste or arable land. Procedure when difference as to compensation exists.

35. (1) Subject to the provisions of Part VII of this Act, whenever it appears to the appropriate Government that the temporary occupation and use of any waste or arable land are needed for any public purpose, or for a company, the appropriate Government may direct the Collector to procure the occupation and use of the same for such term as it shall think fit, not exceeding three years from the commencement of such occupation.

---

* Inserted by Madras Act XII of 1953.

† The word 'four' was substituted for 'six' with reference to section 2 of Madras Act XII of 1953.

(2) The Collector shall thereupon give notice in writing to the persons interested in such land of the purpose for which the same is needed, and shall, for the occupation and use thereof for such term as aforesaid, and for the materials (if any) to be taken therefrom, pay to them such compensation, either in a gross sum of money, or by monthly or other periodical payments as shall be agreed upon in writing between him and such persons respectively.

(3) In case the Collector and the persons interested differ as to the sufficiency of the compensation or apportionment thereof, the Collector shall refer such difference to the decision of the Court.

Power to enter and take possession, and compensation on restoration.

36. (1) On payment of such compensation, or on executing such agreement or on making a reference under section 35, the Collector may enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice.

(2) On the expiration of the term, the Collector shall make or tender to the persons interested compensation for the damage (if any) done to the land and not provided for by the agreement, and shall restore the land to the persons interested therein:

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require, the appropriate Government shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose or for a company.

Difference as to condition of land.

37. In case the Collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Collector shall refer such difference to the decision of the Court.

PART VII.

Acquisition of land for companies.

Company may be authorized to enter and survey.

38. (1) [1] * * * The appropriate Government may authorize any officer of any company desiring to acquire land for its purposes to exercise the powers conferred by section 4.

(2) In every such case section 4 shall be construed as if for the words "for such purpose", the words "for the purposes of the company" were substituted; and section 5 shall be construed as if after the words "the officer", the words "of the company" were inserted.

[1] The words "subject to such rules as the G.G. of India in C may from time to time prescribe in this behalf" repealed by section 2 and schedule I of Act 38 of 1920.

[1] [38-A. An industrial concern, ordinarily employing not less than one hundred workmen owned by an individual or by an association of individuals and not being a company, desiring to acquire land for the erection of dwelling houses for workmen employed by the concern or for the provision of amenities directly connected therewith shall, so far as concerns the acquisition of such land, be deemed to be a company for the purposes of this part, and the references to company in sections 5-A, 6, 7, 17 and 50 shall be interpreted as references also to such concern.]

Industrial concern to be deemed company for certain purposes.

Previous consent of appropriate Government and execution of agreement necessary.

39. The provisions of sections 6 to 37 (both inclusive) shall not be put in force in order to acquire land for any company, unless with the previous consent of the appropriate Government, nor unless the company shall have executed the agreement hereinafter mentioned.

Previous enquiry.

40. (1) Such consent shall not be given unless the appropriate Government be satisfied, [2] [either on the report of the Collector under section 5-A, sub-section (2), or] by an enquiry held as hereinafter provided,—

[3] [(a) that the purpose of the acquisition is to obtain land for the erection of dwelling houses for workmen employed by the company or for the provision of amenities directly connected therewith, or

(b) that such acquisition is needed for the construction of some work, and that such work is likely to prove useful to the public.]

(2) Such enquiry shall be held by such officer and at such time and place as the appropriate Government shall appoint.

(3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the [4] Code of Civil Procedure in the case of a Civil Court. 14 of 1882

Agreement with appropriate Government.

41. [5] * * * If the appropriate Government is satisfied [6] [after considering the report, if any, of the Collector under section 5-A, sub-section (2), or on the report of the officer making an enquiry under section 40] that [7] [the purpose of the proposed acquisition is to obtain land for the erection of dwelling houses for workmen employed by the company or for the provision of amenities directly connected therewith, or that] the proposed acquisition is needed for the construction of a work, and that such work is likely to prove useful to

[1] Ins. by Act 16 of 1933, S. 6.
[2] Ins. by Act 38 of 1923, S. 9.
[3] Subs. by Act 16 of 1933, S. 3, for the original clauses (a) and (b).
[4] See now the Code of Civil Procedure, 1908 (5 of 1908).
[5] The words "such officer shall report to the L. G. the result of the enquiry and" were repealed by Act 38 of 1923, S. 10.
[6] Ins. by S. 10 ibid.
[7] Ins. by Act 16 of 1933, S. 4.

the public, it shall [1] * * * require the company to enter into an agreement with the appropriate Government, providing to the satisfaction of the appropriate Government for the following matters, namely :—

(1) the payment to the appropriate Government of the cost of the acquisition;

(2) the transfer, on such payment, of the land to the company;

(3) the terms on which the land shall be held by the company;

[2] [(4) where the acquisition is for the purpose of erecting dwelling houses or the provision of amenities connected therewith, the time within which, the conditions on which and the manner in which the dwelling houses or amenities shall be erected or provided; and

(5) where the acquisition is for the construction of any other work, the time within which and the conditions on which the work shall be executed and maintained, and the terms on which the public shall be entitled to use the work.]

Publication of agreement.

42. Every such agreement shall, as soon as may be after its execution, be published [3] * * * in the official Gazette and shall thereupon (so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Act.

Sections 39 to 42 not to apply where Government bound by agreement.

43. The provisions of sections 39 to 42, both inclusive, shall not apply and the corresponding sections of the [4] Land Acquisition Act, 1870, shall be deemed never to have applied, to the acquisition of land for any railway or other company, for the purposes of which, [5] [under any agreement with such company, the Secretary of State for India in Council, the Secretary of State, the Central Government or any State Government is or was bound to provide land.] 10 of 1870

How agreement with Railway Company may be proved.

44. In the case of the acquisition of land for the purposes of a Railway Company, the existence of such an agreement as is mentioned in section 43 may be proved by the production of a printed copy thereof purporting to be printed by order of Government.

PART VIII.

MISCELLANEOUS.

Service of notices.

45. (1) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 4, by the officer therein mentioned, and, in the case of any other notice, by or by order of the Collector or the Judge.

1 The words "subject to such rules as the G.G. in C may from time to time prescribed in this behalf" repealed by the Act 38 of 1920, section 2 and schedule I.

2 Substitute by Act 16 of 1933, section 4 for the original clauses (4) and (5).

3 The words "in the Gazette of India and also" repealed by the A.O. 1937.

4 Repealed by this Act.

5 Substituted by the A.O. 1937 for "under any arrangement between such company and the secretary of State for India in Council the Government is, or was bound to provide land."

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(3) When such person cannot be found, the service may be made on any adult male member of his family residing with him; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector or in the court-house, and also in some conspicuous part of the land to be acquired:

Provided that, if the Collector or Judge shall so direct, a notice may be sent by post, in a letter addressed to the person named therein at his last known residence, address or place of business and registered under Part III of the [1]Indian Post Office Act, 1866, and service of it may be proved by the production of the addressee's receipt. 14 of 1866.

46. Whoever wilfully obstructs any person in doing any of the acts authorized by section 4 or section 8, or wilfully fills up, destroys, damages or displaces any trench or mark made under section 4, shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month, or to fine not exceeding fifty rupees, or to both. Penalty for obstructing acquisition of land.

47. If the Collector is opposed or impeded in taking possession under this Act of any land, he shall, if a Magistrate, enforce the surrender of the land to himself, and, if not a Magistrate, he shall apply to a Magistrate or (within the towns of Calcutta, Madras and Bombay) to the Commissioner of Police, and such Magistrate or Commissioner (as the case may be) shall enforce the surrender of the land to the Collector. Magistrate to enforce surrender.

48. (1) Except in the case provided for in section 36, the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken. Completion of acquisition not compulsory, but compensation to be awarded when not completed.

(2) Whenever the Government withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.

(3) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section.

49. (1) The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desire that the whole of such house, manufactory or building shall be so acquired: Acquisition of part of house or building.

Provided that the owner may, at any time before the Collector has made his award under section 11, by notice in

[1]*See* now the Indian Post Office Act, 1898 (6 of 1898).

writing, withdraw or modify his expressed desire that the whole of such house, manufactory or building shall be so acquired:

Provided also that, if any question shall arise as to whether any land proposed to be taken under this Act does or does not form part of a house, manufactory or building within the meaning of this section, the Collector shall refer the determination of such question to the Court and shall not take possession of such land until after the question has been determined.

In deciding on such a reference the Court shall have regard to the question whether the land proposed to be taken is reasonably required for the full and unimpaired use of the house, manufactory or building.

(2) If, in the case of any claim under section 23, sub-section (1), *thirdly*, by a person interested, on account of the severing of the land to be acquired from his other land, the appropriate Government is of opinion that the claim is unreasonable or excessive, it may, at any time before the Collector has made his award, order the acquisition of the whole of the land of which the land first sought to be acquired forms a part.

(3) In the case last hereinbefore provided for, no fresh declaration or other proceedings under sections 6 to 10, both inclusive, shall be necessary, but the Collector shall without delay furnish a copy of the order of the appropriate Government to the person interested, and shall thereafter proceed to make his award under section 11.

Acquisition of land at cost of a local authority or company.

50. (1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any company, the charges of and incidental to such acquisition shall be defrayed from or by such fund or company.

(2) In any proceeding held before a Collector or Court in such cases the local authority or company concerned may appear and adduce evidence for the purpose of determining the amount of compensation:

Provided that no such local authority or company shall be entitled to demand a reference under section 18.

Exemption from stamp duty and fees.

51. No award or agreement made under this Act shall be chargeable with stamp duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

Notice in case of suits for anything done in pursuance of Act.

52. No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's pervious notice in writing of the intended proceeding, and of the cause thereof, nor after tender of sufficient amends.

Code of Civil Procedure to apply to proceedings before Court.

14 of 1882 53. Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the [1]Code of Civil Procedure shall apply to all proceedings before the Court under this Act.

Appeals in proceedings before Court.

5 of 1908. [2][54. Subject to the provisions of the Code of Civil Procedure, 1908, applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, an appeal shall only lie in any proceedings under this Act to the High Court from the award, or from any part of the award, of the Court and from any decree of the High Court passed on such appeal as aforesaid an appeal shall lie to the Supreme Court subject to the
5 of 1908 provisions contained in section 110 of the Code of Civil Procedure, 1908, and in Order XLV thereof.]

Power to make rules.

55. (1) The appropriate Government shall [3] * * * have power to make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement, and may from time to time alter and add to the rules so made.

[4] * * *

(2) The power to make, alter and add to rules under sub-section *(1)* shall be subject to the condition of the rules being made, altered or added to after previous publication.

(3) All such rules, alterations and additions shall [5] * * * be published in the official Gazette, and shall thereupon have the force of law.

1 *See* now the Code of Civil Procedure, 1908 (5 of 1908).
2 Substituted by Act 10 of 1921, Section 3.
3 The words "Subject to the Control of Governor General in Council" were repealed by Act 38 of 1920, Section 2 and Schedule I.
4 The proviso was repealed by the A.O. 1937.
5 The words "When sanctioned by the Governor General in Council" were repealed by Act 4 of 1914, Section 2 and Schedule Part I.

H.C., S.C.'s Office,
Karur.
17.5.62

PART II.

Standing Orders of the Board of Revenue Nos. 90 and 91

ACQUISITION OF LAND FOR PUBLIC PURPOSES.

90. *Acquisition of land for public purposes.*

SECTION I—GENERAL INSTRUCTIONS.

1. Land Acquisition Act I of 1894, as amended by Act XXXVIII of 1923.—
   (i) Scope of the Act .. ..
   (ii) When land to be acquired under the Act .. ..
   (iii) When Act not to be applied .. ..
   (iv) Proceedings under the Act not to be retrospective .. .. ..
2. When land to be acquired by private negotiation—
   (i) To acquire land by free gift or by private purchase not desirable
   (ii) Legal necessity to avoid a free gift .. ..
   (iii) No objections to local bodies obtaining land by private purchase or by deed of gift.
   (iv) Cases of acquisition for purposes of roads .. ..
3. Selection of sites.
4. Districts where village-site may be provided by the State.
5. Special Officer for acquisition of land.

SECTION—II. PRELIMINARY PROCEEDINGS.

6. Application—
   (i) To whom the application should be sent —its form and contents..
   (ii) Enclosures which should accompany the application .. ..
7. Notification under Section 4 (1) of the Act—
   (i) Notification—Necessity for its publication—Form and contents ..
   (ii) Submission and publication of the notification .. .. ..
8. Joint Inspection—Preliminary valuation statement—
   (i) Inspection .. ..
   (ii) Preliminary valuation statement .. ..
      (1) General procedure.. .. ..
      (2) Lands containing any religious buildings, tombs or grave yards ..
      (3) Form of the statement .. ..
      (4) Contents of the statement .. ..
      (5) Data to be furnished in the case of large projects, such as, railways canals, etc.
      (6) Collector to check the value at the time of enquiry under Section 5-A or before that date.
9. Objections to acquisition—Enquiry.
   (i) Issue of individual notices to persons interested .. .. ..
   (ii) Classes of objections to be specially dealt with—enquiry. .. ..
10. Preparation, etc., of draft declaration—
11. Temporary occupation.—
   Procedure .. ..
   Compensation for lands procured for temporary occupation. .. ..

SECTION III—PROCEDURE AFTER THE PUBLICATION OF THE DECLARATION UNDER SECTION 6 OF THE ACT.

12. After publication of declaration .. ..
13. Basis of Award .. ..
14. Directions regarding the Award .. ..
15. Discretion allowed to valuing officer .. ..
16. Safeguards to be adopted, against excessive awards .. .. ..
17 (i) Revision of award duly announced not permitted .. .. ..
(ii) Supplemental awards prohibited .. ..
18 (i) Taking possession .. ..
(ii) Land acquired for private institutions or Associations .. ..
19. Record of transactions and correction of Karnams' Field measurement books and revenue survey maps.

SECTION IV—PAYMENT OF COMPENSATION IN CASH.

20. Instructions regarding payment .. ..
21. Rules to be observed in making payment in cash .. .. ..
22. Payment into court .. ..

SECTION V—SETTLEMENT OF COMPENSATION OTHERWISE THAN IN CASH.

23. General rules .. ..
24. Payment of interest where compensation is awarded otherwise than in cash.
25. Special rules for compensation for unenfranchised service inams ..
26. Consent of occupant necessary to assignment of assessment .. ..
27. Record of transactions under this section .. ..
28. Procedure when undue delay occurs in settling compensation otherwise than in cash.
29. Cases not provided for .. ..

SECTION VI—MISCELLANEOUS.

30. Proportionate reduction of peshkash or quit rent how worked out.
31. Acquisition of land for local bodies .. ..
31-A. Acquisition of land for irrigation, navigation, embankment, and drainage works.
31-B. Acquisition of land for house-sites in rural areas for the communities eligible for the ameliorative measure undertaken by the Harijan Welfare Department for landless labourers.
31-C. Acquisition of land for Central Government. .. .. ..
32. Disposal of land which is no longer required for the public purpose for which it was acquired.
(i) Land likely to be again required for public purposes. .. ..
(ii) Land situated within half a mile of the boundary of the railway station.
(iii) Land originally building-site or townland and not falling under classes (i) and (ii).
(iv) Land originally agricultural or pastoral and not falling under classes (i) and (ii).
(v) Divisional officers competent to re-assign lands to original owners or their heirs.

(vi) Sales to be subject to the stipulation that the assessment will be liable to alteration at resettlement.

33. Statement of pending land acquisition cases.

34. Check memorandum to be appended to land Acquisition files ..

91. *Rules relating to transaction with railways.*

1. Railway Board's circulars containing rules for the guidance of the revenue officials.

2. Classification of land required for railways .. ..

3. (i) Tranfer of Government land to railway administrations .. ..

(ii) Transfer to railway administrations of lands set apart for the use of the villagers in estates as defined in the Madras Estates Land Act (I of 1908), as amended by Madras Act XVIII of 1936.

4. Relinquishment of land held by railway in excess of requirements ..

(1) Land which is likely to be required for the railway in the near future.

(2) Land which will probably be required in the distant future ..

(3) Lands acquired by Railway Administration for road, channel, etc., diversions-classification.

(4) Account adjustments consequent on transfer of land to, and relinquishment of land by railways.

(5) Relinquishment of land by the old guaranteed Railways .. ..

5. Management of land which may be required in the distant future ..

6. Removal of sand by Railway Administration from river-beds ..

7. Survey and demarcation of land .. ..

LAND ACQUISITION MANUAL.

PART II.

STANDING ORDERS OF THE BOARD OF REVENUE
Nos. 90 AND 91.

BOARD'S STANDING ORDER No. 90.

ACQUISITION OF LAND FOR PUBLIC PURPOSES.

90. Acquisition of land for public purposes*—

SECTION I—GENERAL INSTRUCTIONS.

Note.—The terms local boards, local body, local board, local authority and local fund, wherever they occur in this Standing Order, include the Panchayat Boards constituted under the Madras Village Panchayats Act, XV of 1920.

G.O. Mis. 1451, Rev., d. 5–7–28. B.P. 66, d. 10–7–28.
G.O. Mis. 2112, Rev., d. 7–10–31. B.P. 90, d. 15–10–31.

1. *Land Acquisition Act I of* 1894 *as amended by Act XXXVIII of* 1923.

(i) *Scope of the Act.*—By Act I of 1894 State Government are empowered to acquire compulsorily any land which is not already the property of the Government and which is required for a public purpose or under the special circumstances described in Part VII of the Act for a company.

Note.—The acquisition of lands for private educational institutions should be effected under Part II of the Land Acquisition Act and not under Part VII.

B.P. 72, Press, d. 11–6–36.

(ii) *When land to be acquired under the Act.*—Whenever land which is not already the property of the Government is permanently required for State Government purposes it should invariably be taken up under Act I of 1894, as acquisition under the Act confers an indefeasible title.

Note.—The provisions of this sub-paragraph do not apply to transactions governed by Board's Standing Order No. 26-A.

G.O. Press, 1422, Rev., d. 14–7–37. B.P. 100, d. 20–9–37.
G.O. Ms. 2065, Rev., d. 17–5–57.

(iii) *When Act not to be applied.*—The Act should not be employed when the State Government dispute the title to any land or when one department of State Government desires to obtain land in the possession of another department. In the latter case reference should be made to the head of the department concerned.

B.P. Mis. 5803, d. 19–11–95. B.P. 302, d. 9–9–97.
I.L.R., Volume VII, All., see page 817.
G.O. Ms. 1763, Rev., d. 28–8–37. B.P. 36, Press, d. 20–4–38.

(iv) *Proceedings under the Act not to be retrospective.*—Land must not ordinarily be entered upon or taken possession of otherwise than in accordance with the provisions of the Act and it should be remembered that no subsequent proceedings under the Act will have retrospective effect or validate action previously taken. If in order to save life or property or for the purposes named in section 4 (2) of the Act, it is necessary to take possession of the land before the provisions of the Act have been complied with, the officer taking action should previously obtain the consent in writing of the owner of the land.

---

* B.P. 122, d. 2–11–28.
G.Os. 2231, Rev., d. 26–9–28 and 2275, Rev., d. 29–9–28.

2. *When land to be acquired by private negotiation.*—(i) It is not desirable that land required for State Government purposes should be acquired by free gift or by private purchase. Formal proceedings should always be initiated under the Land Acquisition Act for the acquisition of land for a State Government department. There is no objection however to local officers negotiating with the owners of land about to be acquired for a public purpose, with the object of coming to an amicable agreement with them as to the price to be paid previous to the initiation of proceedings under the Land Acquisition Act and with a view to guarding against subsequent exorbitant demands or awards; provided that this procedure will result in economy. Any settlement thus arrived at should be communicated to the Land Acquisition Officer, who though not bound to accept in his award the price agreed on beforehand will no doubt do so in ordinary cases. The settlement must take the form of an agreement that the owner is willing to sell for a certain specified sum plus 15 per cent of that sum for compensation, the total of the two sums being the actual price agreed on.

Note.—The provisions of this sub-paragaraph do not apply to transactions governed by B. S. O. No. 26-A.

G.O. Press, 1422, Rev., d. 14–7–37. B.P. 100, d. 20–9–37.

(ii) The practice of awarding a nominal compensation in cases in which the owner is willing to make a free gift of the land is illegal and does not give the Government an absolute title to the land, as other persons interested in the land can question the validity of the transaction on the ground of want of adequate consideration. The proper procedure in such cases is to pass an award under section 11 for the full market value of the land. The owner who is willing to make a free gift of the land may receive the compensation awarded and make a gift of the amount of the compensation to the State Government to be utilized for the public purpose for which the land was acquired.

G.O. 1697, Rev., d. 30–8–27. B.P. 100, d. 20–9–37.
G.O. Ms. 2325, Rev., d. 21–10–21.

(iii) There is no objection to local bodies obtaining land required for their purposes by private purchase or by a deed of gift. It will be left to the local body concerned to decide in each case whether it will acquire the land required by private negotiation or whether it will approach the State Government for its acquisition under the provisions of the Land Acquisition Act.

(iv) In cases of acquisition of lands for Government road works, the lands may be acquired by private transfer where the local Government Pleader certifies that the title to the lands can be safely accepted and that there is no chance of risk of the Government being involved in litigation. This procedure should, however, be confined only to cases of acquisition for purposes of roads.

G.O. Rt. 96, Rev., d. 10–2–1951. B.P. 11, Press, d. 5–3–51.

3. *Selection of sites.*—The officer who selects the land on behalf of the requiring department is bound to see that the interests of State Government, of the public and of private individuals are duly considered

and that sites and alignments are chosen so as to cause the minimum of expenditure, annoyance and loss compatible with the object for which the land is required. Whenever it is proposed to acquire a site for a building, attention should be paid, among other things, to architectural conditions. Thus, if there is a choice of site between a prominent corner plot which is not occupied by any suitable building and a more ordinary site in which the State Government building in contemplation would be hidden away by other buildings of no consequence, the site, the construction of buildings on which will improve the amenities of the locality should be preferred.

The arrangements, if any, between the officers of the Department requiring the land and those of the Revenue Department in regard to the selection of the land to be taken up should, where practicable, be made without divulging the intentions of the Government in order to prevent prices being put up.

G.O. Ms. 2219, Rev., d. 30-8-39. B.P. 88, d. 2-10-39.

4. *Districts where village-site may be provided by the State.*— In districts other than those noted in the margin, land required for the formation or extension of village-sites in ryotwari areas may be acquired under the provisions of the Act, State Government having declared under section 3, clause (*f*) of the Act, that in such districts it is customary for the State to provide village-sites[a]. [b]The State Government do not ordinarily recognize any obligation to provide village-sites in permanently-settled villages[b].

Madras and the Nilgiris.

Note.—This does not mean that the Land Acquisition Act cannot be used for the acquisition of land for house-sites in the districts of Madras and the Nilgiris. The provision of suitable land for the purpose of a housing scheme for members of the Scheduled Castes or of the general public may be considered to be a public purpose although the acquisition is to be effected in a district not included in the notification under section 3 (*f*) of the Act.

[a] B.P. 196, d. 17-6-95. [b] G.O. 2497, Rev., d. 28-8-14.
G.O. Press 3032, Rev., d. 26-11-38. B.P. 26, Press, d. 20-3-39.
G.O. Rt. 161, Rev., d. 15-3-57.

5. *Special Officer for acquisition of land.*—(1) Whenever land is required for an extensive public work, a special officer should be employed in connexion with the acquisition of the land. The additional chare involved will generally be more than counter-balanced by greater economy in the payment of compensation and the saving of interest and other charges consequent on a prompter settlement of claims. An officer specially appointed for the acquisition of land for public works will obtain funds and make disbursements and account for them in the same manner as an officer of the Public Works Department. In other respects, he will be under the control of the Collector of the district in which he is working To avoid delay, however, the special officer or the Revenue Divisional Officers who are appointed to do land acquisition work will be permitted to correspond direct with the authorities on whose behalf the land is being acquired regarding the land plans, etc., but they should send the draft notifications to the Collector of the district concerned who should scrutinize the same before they are sent to Government for approval.

In all cases of acquisition of lands on behalf of companies and local bodies, the cost of special establishments employed and the incidental charges incurred will be debited to the acquiring body concerned as laid down in section 50 (1) of the Land Acquisition Act. When lands are acquired for a department of the Central Government, the cost of acquisition (including the incidental charges and the cost of the special staff, if any, employed) should be debited to the Central Government. When a Special Officer is employed for the acquisition of land for any department, the expenditure on account of his pay, allowances, establishment, contingencies, etc., is chargeable to that department as part of the cost of land. When the land is taken up by a Civil Officer, not specially employed for the work, his pay and allowances and the charges of his ordinary establishment and contingencies will be debited to land revenue; but any special charges incurred in connexion with the acquisition of the land in question, on establishment, contingencies, etc., should be borne by the department for which the land is acquired. Every Special Officer appointed as above should be given a staff sufficient to carry out survey operations prescribed in paragraph 13 below. The Special Officer will be held responsible for the accuracy of the survey work done by his staff and it is therefore essential that he himself should have been trained in survey. The Special Officer should invariably consult the [a] Collector of the district [a] as to the lines on which the survey operations should be carried out, as these must necessarily vary with the nature of the existing cadastral survey of the tract.

*G.O. Ms. 1822, Rev., d. 30-4-57: B.P. Mis. 944, d. 6-7-56.

(2) (*a*) The Special Officer appointed for land acquisition may sanction the following transfers and carry out the consequential changes in the revenue accounts, without reference to or the intervention of the Revenue Divisional Officers concerned :—

(i) transfers to Public Works Department poramboke, of assessed wastes and poramboke lands at the disposal of the State Government which are required for the public work, and

(ii) transfers to Public Works Department poramboke, of channels, cart-tracks and footpaths shown as "details" in private holdings which are subdivided and reserved in connection with the public work after publication of notices inviting objections to the transfer and without acquiring such portions.

(*b*) The Special Officer may make payments of the compensation amount while camping in the village immediately after closing the award enquiry and passing the award.

(*c*) The Special Officer may carry out the changes in the village and the taluk accounts without reference to the Revenue Divisional Officers concerned in accordance with the following instructions :—

(i) While carrying out the changes both in the village and the taluk accounts and inserting the new maps in the karnams, and the taluk copies of the Field Measurement Books, the Special Officer should also

attend to the cancellation of old sketches, correction of side numbers in the field maps affected and amendment of the demarcation sketches and stone registers.

(ii) The entry of the changes in the diglott register should follow the form of the diglott register, the blank pages being neatly ruled and all the columns entered.

(iii) The Special Officer should intimate the new numbers assigned, to the Survey Party, as soon as the survey has been finished or immediately after the passing of the award without waiting till the changes are incorporated in the maintained set of maps and in the village and the taluk accounts.

(iv) The Circle Officer or District Surveyor may transfer the maintainable set of maps of the villages in estates to the Survey Party and get them back after all the new changes have been incorporated.

(*d*) The Special Officer may publish the notification under section 13 of the Madras Survey and Boundaries Act, 1923, in Special Supplements of the District Gazette instead of in the monthly issues and may cause the notice under section 9 (2) of the Madras Survey and Boundaries Act, 1923, to be served before passing the award instead of along with notices under section 9(3) of the Land Acquisition Act. He may also cause the despatch of the registration returns direct to the Sub-Registrars instead of through the Revenue Divisional Officers.

B.P. 82, Press, d. 26-7-37.
B.P. 391, d. 25-10-95.
B.P. 335, d. 20-5-89.
B.P. 249, d. 15-3-88.
[a] B.P. 72, d. 19-12-25.
G.O. 2124, Rev., d. 18-9-16.
B.P. 269, Sett., d. 4-10-16.
G.O. 1148, Rev., d. 14-7-26.
B.P. 1025, d. 18-12-88.

G.O. Ms. 1763, Rev., d. 28-8-37.
G.O. R. 26, Rev., d. 17-1-44.
G.O. Mis. 554, Rev., d. 12-3-31.
B.P. 36, Press, d. 20-4-38.
B.P. 4, Press, d. 3-2-44.
B.P. 28, d. 18-3-31.

SECTION II—PRELIMINARY PROCEEDINGS.

6. *Application.*—(i) In all cases in which land is required by a department of State Government, *other than the Revenue Department or* has to be acquired for local fund or municipal purposes or for educational or other public purposes on behalf of private institutions or associations, the department, or local body concerned, or the Manager or other authorized agent of the *institution or association*, should send an application in the prescribed form (Appendix XII—Form I) direct to the Revenue Divisional Officer and send a copy of the application to the District Collector. The certificates required in the application should be supplied and if for any reason any of them cannot be supplied, the reasons therefor should be clearly explained. When the acquisition is for a private institution or an association the State Government will at the time of issuing the notification under section 4 (1) of the Land Acquisition Act, determine the conditions subject to which the lands will be alienated to it after acquisition and communicate them to the Collector with instructions to add such other special conditions as are deemed necessary

according to the local conditions and to obtain the consent of the party to them. The declaration under section 6 will not be issued until the party agrees. As the conditions of acquisition are fixed subsequent to the institution of the acquisition proceedings, the Collector should obtain an undertaking from the institution or association while making the application for acquisition that in case it refuses to agree to the conditions that may be imposed by the State Government it will pay such compensation for damages as may be determined by the State Government under section 48 of the Land Acquisition Act.

G.O. Ms. 3150, Rev., d. 19-12-40. B.P. 8, Press, d. 31-1-41.
G.O. Ms. 1863, Rev., d. 12-6-43. B.P. Press, 12, d. 19-7-43.

When land is required *for the Revenue Department*, the Collector himself will institute proceedings either of his own motion or under the orders of the Board of Revenue or Government.

When land is required on behalf of a local body or a municipality, a resolution of the local body should be obtained, undertaking (*a*) to use the land for the purpose for which it is to be acquired and for no other purpose without the sanction of the State Government (*b*) to carry out that purpose within a specified period, and (*c*) to restore the land to the State Government, if they so direct, on payment of the compensation awarded less 15 per cent awarded for compulsory acquisition, or of the value of the land at the time of restoration whichever may be less, in the event of the local body, not carrying out the purpose for which the land is acquired within the specified period or using the land without the sanction of the State Government at any time, for any purpose other than that for which it is acquired. The Collector should before recommending acquisition ascertain by careful enquiry that the local body is willing to carry out this undertaking and is financially in a position to do so.

G.O. Ms. 138, Rev., d. 24-1-33. B.P. 8, d. 31-1-33.
G.O. Ms. 338, Rev., d. 19-2-34. B.P. 33, d. 28-2-34.

The application for land should show clearly the purpose for which the land is required. The limits of the land and such other particulars as may be necessary for the identification of the land, should also be specified. To facilitate joint inspection, it is necessary to mention the name and designation of the officer who can identify the land required and who has authority to decide himself or subject to confirmation by a superior officer any doubtful points that are likely to arise during such inspection.

(ii) A *plan* of the locality should accompany the application. This plan should, wherever possible, be based on and connected with the revenue cadastral survey, all measurements in the plan being given in links except in the case of plans furnished by the Public Works Department in which the measurements may be entered in terms of feet. In the case of land required for railways or other large projects, the department concerned should furnish a separate sketch map for each district affected by the project showing the exact course of the centre line of the land to be taken up and containing references to villages and towns.

This map should be drawn to a scale of one inch to the mile and should show village boundaries wherever they have been surveyed. The distances should also be marked upon it, and the average width of the strip to be taken up should be stated. For land near towns, or which for other reasons is likely to have a specially high value, a map on a sufficiently large scale should be prepared showing the approximate boundaries of the land likely to be required with a note of any valuable trees, buildings or other property for which compensation will have to be paid in addition to the price of the land itself.

B.P. 43, d. 1-2-96.

G.O. 1079, Rev., d. 11-5-20. B.P. 82, Sett., d. 14-6-20.

7. *Notification under section* 4 (1) *of the Act*—(i) *Notification.*—The Land Acquisition Amendment Act XXXVIII of 1923, has made the publication of a notification under section 4 (1) of the Act not only a preliminary to entry on the land but also a necessity in every case as it is a legal notice to persons interested that they may prefer objections to the proposed acquisition. The Revenue Divisional Officer, receiving an application for the acquisition of land or the orders of the District Collector to start acquisition proceedings for land required for the Revenue Department, should arrange immediately for the inspection of the land and for the preparation of a notification under section 4 (1) of the Act. The notification should be prepared in the form 2A or 2B given in Appendix XII and forwarded to the District Collector. In the case of large acquisitions it may not be possible to fill up all the columns in the form; in such cases, the requirements of law will be satisfied if a description is given such as would enable the persons interested to ascertain what is proposed to be acquired. As the compensation to be paid for the land is determined by its market value at the date of the publication of this notification, there should be no avoidable delay in its submission.

All information necessary for the preparation of the valuation statement should be collected at the time of the enquiry made for the submission of the draft notification and the statements should where possible accompany the draft notification. Where it is not possible to submit the statement along with the notification, the latter should not be delayed on this account but should be submitted immediately it is ready. Where the owner or occupier of the land objects to the Revenue Officer's entry on the land, the notification must be prepared with the information already available.

The officer who is to perform the duties of a Collector under the Act should be mentioned in the notification. Whenever circumstances necessitating the application of sub-sections (1) and (2) of section 17 of the Act exist they should be stated and the notification amended dispensing with the application of the provisions of section 5-A of the Act. It should be borne in mind that under the provisions of section 17 (4) of the Act, exemption from section 5-A can be sanctioned only in cases to which the provisions of sub-section (1) or (2) of section 17 are applicable and that sub-section (1) is applicable only to waste or arable land. The

existence of scattered trees or temporary structures, such as huts, pandals or sheds will not, however, preclude the application of the sub-section to waste or arable land. Even if the persons interested in the land are willing to part with it, the enquiry under section 5-A may be dispensed with only if it is a case of urgency to which the provisions of section 17 (1) or (2) may be applied. In all cases in which exemption from section 5-A is proposed, it should be clearly explained how the case falls under sub-section (1) or (2) of section 17, and in cases covered by sub-section (1), the letter forwarding the notification should state explicitly that the lands included in it are either waste or arable and do not contain any building. The fact that scattered trees or temporary structures, such as, huts, pandals or sheds do or do not exist thereon should also be mentioned. The term arable " land " includes land cultivated with the annual or seasonal crops.

G.O. 506, Rev., d. 26-3-24. G.O. 1248, Rev., d, 13-8-24.
G.O. 792, Rev., d. 17-5-26.
G.O. Ms. 1573, Rev., d. 17-6-1949. B.P. Press 23 d, 27-7-1949.

(ii) (*a*) *Submission of the notification.*—On receipt of the notification the District Collector shall submit it for approval and publication *direct* to the Government in the concerned department in the following cases :—

(i) In the case of acquisition for the Revenue Department where the Board of Revenue has given its administrative consent and provided necessary funds, and

(ii) In the case of acquisition for other departments where the authority requiring the lands has specifically stated that sanction of the competent authority exists for the work for which the land is required.

In the cases of urgency where the provisions of section 17 (1) or 17 (2) are applied and enquiry under section 5-A is dispensed with, the District Collector may send both the notifications under section 4 (1) and the declaration under section 6 *direct* to the Government for publication.

In cases where special difficulties or questions of principle are involved, the notification should be sent through the Board of Revenue.

(*b*) *Publication of the notification.*—The Government will direct the publication of the notification if they approve of the proposed acquisition. The notification should be published only in English in the *Fort St. George Gazette.* It need not be republished either in English or in the regional language in the District Gazette.

G.O. Ms. 2065, Rev., d. 17-5-57.

(iii) In submitting proposals for acquisition, Collectors should report whether the possibility of any further land being required in the near future for expansion or development of the project or scheme in question has been considered and whether the proposals made provide for such contingencies.

G.O. Ms. 472, Rev., d. 22-2-38. B.P. Press, 25, d. 12-3-38.

8. *Joint inspection—Preliminary valuation statement*—(i) *Inspection.*—The Revenue Divisional Officer will either personally or through a tahsildar or revenue inspector inspect the locality and will be accompanied

when necessary by an officer of the department or local body requiring the land. While joint inspection will as a rule be found necessary, cases will frequently occur when the presence of the departmental officer may not be required for identifying the land to be acquired, as for example, when a whole survey field or a plot about which there is no doubt or dispute as to the boundary is required, or when the application is accompanied by a plan correctly prepared from the survey records in which case, there is no possibility of inaccuracy. But his presence may still be necessary, e.g., when there are objections to the acquisition or the price appears prohibitive, to decide whether some alteration in the boundaries or change in the site would not serve the purpose equally well. It will be for the revenue officer who will generally be the tahsildar to decide, in what cases the departmental officer should attend and in what cases his presence is not necessary. In cases where he considers joint inspection necessary, he should fix a date and give notice to the department concerned, which will then depute to attend on that date an officer who can identify the land required and who has authority to decide himself, or subject to confirmation by a superior officer, any doubtful points that are likely to arise. The inspecting officers should make known their visit in advance so that the parties interested may be present at the time of their visit.

Note.—Where the acquisition is made on behalf of a local body or company, the loca body or company should either arrange to demarcate the land with stones of proper size or within three weeks after the publication of the notification under section 4 (1) of the Act deposit with the Collector the necessary funds to meet the demarcation charges, failing which, the Collector will take steps to withdraw the land from acquisition.

G. O. Mis. 1017, Rev., d. 11-5-31. B.P. 97, d. 18-5-31.

(ii) *Preliminary valuation statement.*—(1) At the time of the inspection, the land should be identified and staked out. If the plan received from the department applying for the land is not sufficiently detailed to allow of the preparation of the preliminary valuation statement, such further measurements should be taken during the inspection as are found necessary to enable the statement to be prepared. A detailed survey of the land need not be effected at this stage. All that is necessary is to take sufficient measurements to enable the land to be properly identified in the cadastral village and field maps and to obtain the approximate areas of portions of fields to be acquired.

(2) If the lands selected for acquisition contain any *religious buildings, tombs or graveyards*, a statement of their particulars should be prepared with a confidential note dealing with the nature of and weight to be attached to religious objections which have already been raised or are likely to be raised by persons directly or indirectly interested or by any section of the public. If no objections have been raised or are anticipated, the fact should be stated and it should at the same time, be explained whether in the event of acquisition, the demolition of the buildings or obliteration of the tombs will be necessary.

(3) The inspecting officer should at the time of inspection prepare a statement in the form given in Appendix XII—Form 4 showing the position and area of the land and the probable cost of acquisition. The statement should also be signed by the officer of the department requiring

the land if he was also present at the inspection. In valuing lands, details should always be obtained from sub-registration offices of land sales in the locality within the preceding three years and these should be carefully verified on the ground to see how far they can be safely accepted. When buildings with substantial structures which are considered by the revenue officers to be likely to cost more than Rs. 2,500 have to be acquired they should be valued by the officers of the Public Works Department unless through distance or other cause this course would cause undue delay.

(4) The tahsildar will be held personally responsible for the correctness of the entries in the valuation statement. When the inspecting officer is a revenue inspector, the tahsildar should check the statement and submit it with the least practicable delay, unless it has already been submitted along with the notification under section 4 (1) to the Revenue Divisional Officer who should check the valuation and scrutinize delays on the part of his subordinates and then forward it through the District Collector to the department or local body concerned. The entries in columns 5 to 7 of the statement will, as a rule, be based on information obtained from village authorities. Those in columns 13 to 17 should contain the most accurate possible estimate of the value of the land and other property to be acquired. When only part of a registered revenue field is required the fact should be noted in column 7.

On receipt of the valuation statement, the department concerned will submit it to the State Government with full information as to the source from which the funds may be provided or applying for an allotment of funds. A local body receiving the valuation statement will submit it to the Health, Education and Local Administration Department of the Government Secretariat with full information as to the manner in which it is proposed to find the requisite funds.

Note.—Extracts from the village and taluk 'A' registers of the village concerned should invariably accompany the valuation statement.

G.O. Ms. 2813, Rev., d. 31-10-38. B.P. Press, 25, d. 20-3-39.
G.O. Ms. 2065, Rev., d. 17-5-57.

(5) In the case of large projects, such as railways, canals, etc., Collectors may in lieu of the statement prescribed above furnish data in the following specimen form showing the estimated average value per acre as near as may be for the different classes of land in the localities affected by the project :—

Miles.	Rupees per acre.			Remarks.
	Cultivated.		Uncultivated.	
	Irrigated	Unirrigated.		
3-15 ..	*80	30	10	Town land of Rampur. Land within municipal limits will cost about Rs. 900 an acre and in the town itself say Rs. 3 a square yard.
15-17 ..	300	120	30	
17-27 ..	50	25	5	*Land under tea will average about Rs. 800 per acre.

Note.—In the case of railways these data should represent only the value of the land, inclusive of tenants' rights, but exclusive of the value of houses, trees, standing crops, etc., on the land the approximate cost of which should be separately furnished by the Revenue Department. That department should in addition also give a rough estimate of the amount of such further items (if any) as are likely to be included in an award based on section 23 (1) of the Land Acquisition Act and also where necessary an estimate of payments to be made direct to the proprietors of the area acquired in lieu of any abatement of land revenue enjoyed by them and charges for establishment and contingencies. An estimate should also be given of the capitalized value of the abatement of land revenue debitable under the instructions given in Board's Standing Order No. 91, paragraph 4 (5). Special care should be taken by the Revenue Department in the collection of data so as to ensure as far as possible that this estimate is accurate.

G.O. Ms. 1000, Rev., d. 6-6-33. B.P. Press 42, d. 16-6-33.

(6) At the time of the enquiry under section 5-A or before that date, the Collector should, if necessary, check the valuation previously made by his subordinates and report to the department concerned any changes which he may consider necessary in the preliminary valuation.

9. *Objections to acquisition—Enquiry.*—After the publication of the notification under section 4 (1) of the Act, the officer appointed to perform the functions of the Collector should give public notice of the proposed acquisition and hold an enquiry into the objections preferred, if any, in accordance with the rules (vide Appendix I) framed by State Government under section 55 of the Act.

In enquiring into the objections, the Collector will be guided by the following instructions :—

(1) Besides publishing the notice as prescribed in rule 1 of the Appendix I, the Collector should see that individual notices are served as far as possible on every person known or believed to be interested in the land to be acquired in the manner prescribed by sub-sections (3) and (4) of section 9 of the Land Acquisition Act I of 1894. [a]In cases in which it has been impossible at the time of the issue of the notification under section 4 (1) so to describe all or any of the lands to be acquired that the persons interested therein can understand that their lands are likely to be needed for the public purpose, the individual notice should be issued as soon as the necessary details are available allowing 15 days thereafter for the presentation of objections to the acquisition[a].

(2) The Collector's enquiry should deal especially with the following classes of objections to acquisition if they are urged :—

(*a*) that the purpose for which the land is acquired is not a *bona fide* public purpose ;

(*b*) that the particular land notified is not the best adopted to the purpose intended or that its area is greater than is actually required for the purpose ;

(*c*) that the acquisition of the land or any land in the locality is not desirable or expedient.

G.O. 1718, Rev., d. 21-11-23. [a]G.O. 196, Rev., d. 6-2-26.

10. *Preparation, etc., of draft declaration.*—The Collector should submit to State Government through the Collector of the district and the Board of Revenue the records of enquiry with his final report and a draft

declaration under section 6 of the Act in the form prescribed in Appendix XII (Form 5-A or 5-B or 5-C) as also a copy of it in the regional language of the district. He should also report on all objection petitions received by him after the due date which, in his opinion, are valid or reasonable though in respect of such petitions he need not observe the formalities prescribed in section 5-A of the Act and in rule 3 of the rules issued under section 55 of the Act. In cases where no objections have been raised to the acquisition, the draft declaration may be submitted to the Government direct.

G.O. 1718, Rev., d. 21-11-23.
G.O. Ms. 3029, Rev., d. 23-11-50. B.P. Press 4, d. 23-1-51.
G.O. Ms. 2065, Rev., d. 17-5-1957.

In cases of acquisition of land on behalf of the Public Works Department, the District Collector should, when submitting the report under section 5-A and the draft declaration under section 6 to the Board of Revenue, also send a copy of the draft declaration to the Executive Engineer concerned who will submit it to State Government in the Public Works Department through his Superintending Engineer in the manner prescribed in G.O. No. 1903-W., dated 30th September 1913.

G.O. 1771, Rev., d. 13-11-25.

Should State Government approve of the acquisition, the draft declaration under section 6 of the Act will be duly published in English in the *Fort St. George Gazette*. If, on the other hand, State Government decide to give up the acquisition, a notice [a]withdrawing from such acquisition should be published[a].

[a] G.O. 2173, Rev., d. 1-11-27.
G.O. Ms. 1233, Rev., d. 29-5-41. B.P. Press 84, d. 18-8-41.
G.O. Ms. 839, Rev., d. 3-11-43. B.P. Press 34, d. 15-11-43.

11. *Temporary occupation.*—Sections 35 to 37 of the Land Acquisition Act prescribe the procedure to be followed in securing temporary occupation of waste or arable land.

A plan of the land of which temporary occupation is desired will be furnished by the department concerned with a statement of the purpose and the period for which the land is required, accompanied by a request that an estimate may be furnished of the probable cost of occupation. The Collector will have an estimate and an application prepared in the form given in Appendix XII (Form 12), enquire into the objections to the occupation, if any, and forward the estimate to the department concerned together with a statement embodying the result of his enquiry into the objections raised. The department concerned will obtain the sanction of State Government for the temporary occupation. A local body receiving such an estimate will submit it to State Government through the Collector of the district.

On receipt of the orders of State Government, the Collector will award compensation for temporary occupation in the manner laid down in sub-sections 2 and 3 of section 35. He will then take possession of the land and hand it over to the department concerned.

SECTION III—PROCEDURE AFTER THE PUBLICATION OF THE DECLARATION UNDER SECTION 6 OF THE ACT.

12. *After publication of declaration.*—After the publication of the declaration above referred to, the Collector or other officer specially appointed to perform the functions of a Collector will proceed to acquire the land in the manner directed by the Act. Notice must be issued quickly and the award passed as promptly as possible. If a number of fields are being acquired and the enquiry has not been completed for all of them, an award may be passed for those fields for which the enquiry has been completed and a separate award or awards may be passed subsequently for the remaining fields. The award should not be delayed merely because the ownership of the land is in dispute. It has been held that the Collector is in no sense of the term a judicial officer, and that the proceeding before him is not a judicial proceeding. He acts as the agent of the State Government. If the owner of the land desires a judicial decision as to its value or rival claimants as to their title, they can obtain it by requiring the matter to be referred by the Collector to the court under section 18. The Collector can also of his own motion refer disputes of titles to the civil court under section 30, and should do so in all difficult cases. If, during the proceedings under section 11 of the Act for the acquisition of lands for a railway it becomes apparent that the cost of the land will exceed the amount of the sanctioned estimate, the Collector should report the excess to the Railway Administration concerned and furnish fresh data for the revision of the estimate. The award must be in the form prescribed [Appendix XII, Form (8)]. The Land Acquisition Officer need not fill up this form in his own hand; but he should sign it. He will be held personally responsible for the accuracy of the entries in the form. He should also at the same time record in a separate order his reasons for arriving at the findings noted in the award.

G.O. Ms. 2432, Rev., d. 2-9-43. B.P. Press 24, d. 21-9-43.

Note.—Where the acquisition is made on behalf of a local body or company, the local body or company should deposit with the Collector the necessary funds within three weeks after the publication of the draft declaration, failing which the Collector will take steps to withdraw the land from acquisition.

G.O. Ms. 1017, Rev., d. 11-5-31. B.P. 47, d. 10-5-31.

13. *Basis of award.*—(i) The award should be drafted carefully and it should contain a summary of the evidence and the reasons on which it is based. The officer who makes an award must, therefore, record the fullest possible information as to the market value of the land and all other matters to be considered in determining the compensation. The statement of each witness should be separately recorded and all documents should be proved and properly exhibited except the statistics of sales obtained from the sub-registration offices. These statistics need not be judicially proved by examining witnesses or getting copies of sale deeds, but it is necessary that the land acquisition officer should be acquainted with any sales on which parties are likely to rely in court and should have considered their bearing on his award. Section 11 of the Act allows a Collector to base his award on the reports of subordinate officers.

In cases in which the Collector adopts this course, the report should be regularly filed in the course of enquiry. If the report requires elucidation, the officer who sent the report should be examined as a witness. In cases in which the Collector arrives at his conclusion independently of any report, he should see that the award is full and detailed enough to dispense with the necessity for filing any report in court. The Collector should maintain a careful and detailed record of enquiry conducted by him in the case of each award. In any land acquisition case, it may eventually become necessary to make a reference to the civil court under section 18, if any of the persons interested asks for such a reference. The view which a civil court or the appellate court will take must inevitably be influenced by the method adopted by the collector in the conduct of his enquiry and his handling of the evidence. It is, therefore, essential, in order that the interests of the Government may not suffer, that the record of every land acquisition case should contain an order sheet (on lines similar to those in criminal cases and civil suits) which should be maintained by the Collector under his signature or initial in which should be described shortly but clearly against each date of hearing, what the Collector has done at each stage at each hearing.

G.O. 2014, Rev., d. 4-9-16.
G.O. 1400, Rev., d. 9-6-47. B.P. Press 20, d. 25-7-47.

No award should be made unless the Collector has before him a plotted plan of the land to be acquired to which fact he should certify when passing the award. The plan should be prepared in accordance with the instructions given below.

(ii) (*a*) If the land to be acquired consists of a whole survey field or subdivision, the plan will be merely a tracing from the field measurement book. [a]Its technical accuracy should be certified to by the Circle Officer or District Surveyor or by the special officer appointed under paragraph 5, as the case may be, before award is passed. The bends on the survey field or subdivision should be demarcated as explained in clause (iii) below[a].

[a] G.O. Mis. 2005, Rev., d. 1-10-29. [a]B.P. Mis. 3078, d. 11-10-29.
G.O. R. 26, Rev., d. 17-1-44. B.P. Press 4, d. 3-2-44.

(*b*) If the land to be acquired is a part only of a survey field or subdivision, then the plan will be prepared in the manner laid down for the demarcation mapping and registration of changes in the Revenue Administration. This applies also to the case of lands acquired for new railways, for which detailed instructions will be found in Appendix VIII.

B.P. 170, Sett., d. 18-7-17. B.P. 58, d. 30-4-34.
G.O. 542, Rev., d. 17-3-34. G.O. Ms. 2065, Rev., d. 17-5-57.

(iii) Care should be taken that in all cases the new fields and subdivisions are demarcated with durable stones of prescribed dimensions before they are surveyed. All lands acquired for the Public Works Department will, however, be demarcated in the manner laid down in

Appendix VII. The demarcation charges to be borne by State Government in connexion with the survey of land acquired for Government will be debited to the head "25. General Administration—District Administration—U. Other Establishments—A. Taluk Establishments. 5—Office Contingencies—Cost of Land Survey and Land Acquisition" except in the following cases :—

(*a*) when the charges are incurred by special officers acting as public works disbursers ; and

(*b*) when the land is acquired in connexion with commercial or quasi-commercial undertakings or for departments for which capital and revenue accounts are separately kept, whether a special officer has been employed on the acquisition or not.

In the two excepted cases, the incidental charges also should be debited to the works concerned.

G.O. 1079, Rev., d. 11-5-20. B.P. 82, Sett., d. 14-6-20.
G.O. Ms. 2065, Rev., d. 17-5-57.

(iv) (*a*) When a special officer has been appointed under paragraph 5, the work of demarcation, survey and mapping will be carried out by a special staff under his supervision. He will be held responsible for the accuracy of the work and should, therefore, check a percentage of the work of his subordinates both in the field and in office. The special revenue inspectors or surveyors employed under him should issue the notification under section 6 of the Survey and Boundaries Act at the same time as the survey of the lands to be acquired is taken up. Similarly, the notices under section 9 (2) of the Survey and Boundaries Act should be issued at the same time as the notices under section 9 of the Land Acquisition Act. In these notices, the acquiring officer (i.e., the special deputy collector) should be entered as the officer to whom appeals should be preferred except in respect of those villages for which the notices have to be issued within the last three months of the special duty; in the case of the excepted villages, the tahsildar of the taluk should be entered as the officer to whom appeals should be preferred. In respect of the villages for which appeals have been heard by the special officer, the latter should himself issue the final notification under section 13 of the Survey and Boundaries Act and get it published in the village and in the District Gazette on the expiry of the appeal time and after all the appeals have been disposed of. In the case of the excepted villages, the acknowledgments of the notices under section 9 (2) should be forwarded to the tahsildar of the taluk with a draft notification under section 13 of the Survey and Boundaries Act for final publication in the village and in the district gazette. The special staff should also prepare on double royal paper two copies of the revised field maps for insertion in the village and taluk copies of the field measurement books[b] and also a statement of changes due to land acquisition in the form in the enclosure to Appendix VIII[b].

G.O. 542, Rev., d. 17-3-34. B.P. 58, d. 30-4-34.
G.O. Rt. 26, Rev., d. 17-1-44. B.P. Press 4, d. 3-2-44.
[b] G.O. 2440, Rev., d. 20-11-29; B.P. 105, d. 28-11-29.

(b) If no special officer is employed the work will be done by the revenue inspector or taluk surveyor who will be responsible for the accuracy of the measurement, plotting and area computation. He should issue the notification under section 6 of the Survey and Boundaries Act at the same time as the survey of the lands to be acquired is taken up; but notices under section 9 (2) or 10 (2) of the Act, as the case may be, should not be issued till the subdivision file is forwarded to him after the passing of the award for the incorporation of changes in the village accounts. In the urban areas of surveyed towns the duties of the revenue inspector or taluk surveyor will be performed by the town surveyor. The plans prepared by these officers should be submitted to the Circle Officer or District Surveyor through the Land Acquisition Officer. The latter should not keep the plans in his file but should forward them to the Circle Officer or District Surveyor after making a note of any information which he may require. The plans should be scrutinized by the Circle Officer or District Surveyor before the Land Acquisition Officer issues notices under section 9 of the Act and should be before the Land Acquisition Officer when he conducts the award enquiry.

G.O. Ms. 1141, Rev., d. 16-5-35. B.P. Press 57, d. 23-5-35.
G.O. R. 26, Rev., d. 17-1-44; B.P. Press 4, d. 3-2-44.

The Circle Officer or District Surveyor will in the course of his tours, check on the ground cases of such subdivisions along with other revenue subdivisions and should take notice of any bad work which comes under his observation. In specially difficult cases as where the survey records differ materially from the actual state of things on the ground, the Circle Officer or District Surveyor should, if satisfied that such a course is necessary or if so ordered by the Collector either himself perform the duties assigned to the revenue inspector or scrutinize and check the Revenue inspector's work on the ground.

(v)[a] In the case of acquisitions in unsurveyed proprietary estates the lands to be acquired should first be demarcated in accordance with the rules and a regular survey should be made and field maps should be prepared in duplicate. Copies of these maps should also be prepared showing the portions of holdings comprised in them as subdivisions for purposes of compensation. In such cases of acquisition as for roads and channels (other than for railway) the survey should be based on a theodolite traverse the starting and closing points of which should be either maintainable theodolite stations or Great Trigonometrical stations. Where this is not possible, the terminals of the traverse and their pointers (i.e., stations next adjacent to them) should be fixed in masonry. In acquisitions of isolated lands, as for a bungalow site, the ends of one of the "G" lines should be based on a maintainable theodolite traverse, if any, running in the neighbourhood or should be connected by means of the lines with two permanent marks such as culverts or public buildings in the vicinity. If this is not possible, the two ends of the "G" line should be fixed in masonry and the expenditure incurred thereon should be treated as part of the cost of demarcation. As much topographical detail in the immediate vicinity as is possible should be noted on the

sketches in order to facilitate identification of the lands acquired. In the case of acquisitions in any surveyed lands in which the Government are interested and in cadastrally surveyed proprietary estates the procedure to be followed in regard to the demarcation, measurement, and mapping of the lands to be acquired and the records to be prepared are exactly the same as in ryotwari areas. When subdivisions of fields are acquired in cadastrally surveyed estates, the survey of which is not to be maintained at the cost of State Government, sufficient measurements should be taken for the acquired subdivisions and noted on the sketches to secure the provision of independent plottable data for the required lands. The records thus prepared should be checked by the special officer or by the Circle Officer or District Surveyor in the manner laid down above. copies of the field maps should be filed in the village and taluk field measurement books of the proprietary villages and the accounts in the village and taluk office corrected in the manner laid down in paragraph 19 (ii) below.

[a] G.O. 2005, Rev., d. 1-10-29. [a] B.P. Mis. 3078, d. 11-10-29.
G.O. 2440, Rev., d. 20-11-29. B.P. 105, d. 28-11-29.
G.O. 542, Rev., d. 17-3-34. B.P. 58, d. 30-4-34.
G.O. R. 26, Rev., d. 17-1-44; B.P. Press 4, d. 3-2-44.
G.O. Ms. 2065, Rev., d. 17-5-57.

(vi) If in the course of his proceedings the Collector finds it necessary that any alteration should be made in the plan, the award must be deferred until a revised plan has been prepared. The revised plan should be prepared and checked in the same manner as the original plan.

14. *Directions regarding the award.*—(i) The compensation to be awarded for the land under section 11 (ii) of the Act will include—

its value, subject to full assessment, including the value of any buildings, trees and crops standing on it at the time at which the notification under section 4 (1) was published, i.e., in the normal condition in which it would *then* have come into the market, and

in cases in which less than the full assessment is charged on the land and the claimant is entitled to compensation in cash for the loss of this privilege (i.e., if he is the holder of an inam other than unenfranchised service inam), twenty times the amount of the assignment of Government revenue to which he is entitled.

N.B.—(1) Fifteen per cent of each of these amounts should be awarded in addition thereto in accordance with section 23 (2) of the Act.

(2) In the case of zamindari or other proprietary land, the land should be valued in the first instance including all interests in it and the amount so ascertained should then be apportioned among the parties interested according to the value of their several interests. The difference between the market value of the land and the value of the tenant's interest represents the landlord's interest.

G.O. Mis. 256, Rev., d. 9-2-23. B.P. Mis. 436, d. 22-2-23.

(3) The assignment of Government revenue to which an inamdar is entitled will appear from his title-deed where one has been issued; if no title-deed has been issued, the assignment should be valued with due regard to the Reversionary rights of the Government. When the assessment specified in the inam register has been revised by a subsequent revenue settlement the assignment of Government revenue to which the

inamdar is entitled should be determined with reference to the revised assessment, that is, the current assessment appropriate to the description of the land at the time of the inam settlement, which is entered in column 8 of the B register.

G.O. Ms. 1763, Rev., d. 28-8-37. B.P. 36, Press, d. 20-4-38.
G.O. Ms. 2065, Rev., d. 17-5-57.

Note.—Except in cases of emergency, the owner of standing crops should be allowed to harvest them before possession is taken of the land and their value should not be taken into account—G.O. No. 1540, dated 7th October 1925, and B.P. Mis. No. 2659, dated 3rd December 1925.

(ii) When less than the full assessment is charged on the land in consideration of services to be rendered by its holder either to the State or to the community, the Collector should record a finding in the award as to the amount of net assessment guaranteed to the inamdar at the time of the inam settlement on the extent acquired. If it is proposed to make any of the arrangements contemplated in section 31 (3) of the Land Acquisition Act, the Collector should submit proposals to this end through the District Collector.

G.O. Mis. 715, Rev., d. 29-3-21. B.P. 24, d. 29-4-21.

(iii) Clause (iii) of section 11, which requires the Collector to record a finding as regards the apportionment, among the persons interested of the total compensation awarded by him, must be read with sections 30 and 31 (2) of the Act in cases where there is a dispute as to the title to receive compensation or as to the apportionment of it. In such cases the Collector should either make a summary enquiry and record a finding or should refer the dispute to the civil court under the provisions of section 30. If his finding is not accepted by all the parties interested, or if he makes a reference under section 30, he must deposit the full amount of compensation in dispute in court under section 31 (2) of the Act.

B.P. 350, d. 3-12-06.
Paragraph 1 (2) of the Government of India Resolution in B.P. 308, d. 16-11-1898.
B.P. 22, d. 8-2-1900. B.P. 65, d. 24-3-02.
B.P. 295, d. 15-12-09. G.O. 3170, d. 19-11-09.

(iv) If under section 31 (3) or (4) of the Act arrangements have been made to grant compensation otherwise than in cash, the nature of such compensation should be clearly specified in the column of remarks in the award statement prescribed in Form A in Appendix II.

B.P. 206, d. 23-7-07.
G.O. Ms. 1698, Rev., d. 26-7-41. B.P. Press 103, d. 18-9-41.

In cases where the circumstances are such as to necessitate the grant of land in exchange proposals to that effect should not be entered in the award but should be submitted to the Collector of the district separately.

B.P. 2804, d. 10-9-18.

(v) Act I of 1894 (India) does not contemplate the award of compensation in instalments for the interests in lands acquired. Under clauses (ii) and (iii) of section 11, the Collector should determine once for all the amount of compensation due for all the interests in the land and apportion it among those entitled to receive it.

G.O. 2664, d. 13-8-10. B.P. 230, d. 25-8-10.

15. *Discretion allowed to valuing officer.*—Subject to the foregoing remarks, the value of land as well as of the various interests therein should be determined by the officer appointed for its acquisition according to his good sense and discretion and with due regard to the provisions of sections 23 and 24 of the Act. In special cases, as for instance, when land under tea or any specially valuable product has to be taken up, the valuation should be made in accordance with special instructions to be issued by the District Collector. These observations apply also to the valuation of land for the purpose of paragraph 8 supra.

B.P. 43, d. 1-2-96. G.O. Mis. 3659, d. 16-10-99.
B.P. 65, d. 2-3-02. G.O. 432, d. 4-7-99.

16. *Safeguards to be adopted against excessive awards.*—All awards are to be reported to the District Collector with particulars as to the area, soil, rate per acre and total amount in each case with adequate explanation whenever the awards exceed the preliminary valuation. All cases, in which the Collector proposes to award more than 10 per cent in excess of the original estimate, or more than Rs. 10,000, or in which he considers that the evidence is conflicting, or of such a nature that the civil court may possibly award a sum exceeding the estimate by 10 per cent on appeal, should also be reported to the District Collector. In cases of acquisition for a large project, if the Collector finds that the awards are likely to exceed the aggregate estimate for the district by 20 per cent or more, the announcement of further awards should be suspended and a special report should be submitted to the Board through the District Collector. On receipt of these reports, the District Collector may furnish to the Collector (Land Acquisition Officer) any information which may be helpful to the Land Acquisition Officer to determine the correct value of the land. It is not, however, competent for the District Collector to direct the Collector to award any particular amount as compensation. When the Collector, after considering all the information placed at his disposal has finally decided the award to be made, the only alternatives open to the Government are, either to withdraw from acquisition proceedings, or allow them to proceed on the basis of the Collector's award.

The District Collector should call for the explanations from the officers responsible for the original valuation whenever their estimate is found to be materially lower than the value finally awarded. If the land is to be paid for by another department of Government, the District Collector should enquire of that department whether the acquisition should, in the circumstances, be completed.

G.O. Ms. 65, Rev., d. 9-1-50. B.P. Press 14, d. 11-5-50.
G.O. Ms. 2065, Rev., d. 17-5-57.

Notes.—(1) [a] The Collector should give sufficient notice of the date of the enquiry to be held under section 11 of Act I of 1894 to the departmental officer or the officer of the local body or company concerned, so that he may, if so advised, appear in person or by agent watch the proceedings and produce evidence as to the value of the land, and should take into consideration any representation which such officer may make, whether it is made orally or by letter [a]. [a] B.P. 288, d. 15-10-06. G.O. Ms. 1592, Rev., d. 10-4-57.

(2) [a]When the Collector receives notice from a civil court under section 20 (c) of the Land Acquisition Act, he should in case the land is being acquired at the cost of any fund controlled or managed by a local authority or of any company forthwith communicate a copy of such notice to such local authority or company[a]. Information regarding the amount of compensation awarded and the amount claimed should be forwarded to the local authority or company along with the notice or immediately thereafter in order to enable it, if it so elects under section 50 (2) of the Act, to appear and adduce any evidence for the purpose of determining the amount of compensation. He should also inform the local authority or company that, whether it takes advantage of the right which it possesses under section 50 (2) of the Act or not, the law officers of the State Government will be instructed to appear on behalf of the State Government at the cost of the local authority or company.

G.O. Mis. 618, Rev., d. 10-4-26.
B.P. 119, d. 12-4-15.
G.O. Mis. 319, Rev., d. 28-2-24.
G.O. 863, Rev., d. 7-5-27.
[a] G.O. 287, Rev., d. 13-2-29.
[a] B.P. Mis. 563, d. 22-2-29.
G.O. Ms. 1592, Rev., d. 10-4-57.

(3) When a case has been referred to the civil court, the Collector should arrange for the defence of his award as if it were a suit against State Government. In all cases in which the civil court does not uphold the award of the Land Acquisition Officer, the Collector should obtain the orders of the Board under Standing Order No. 95 (1) on the question of filing an appeal or a memorandum of cross-objections against the decree of the civil court. If the acquisition is made at the cost of any fund controlled or managed by a local authority or of any company, the Collector should invariably first ascertain from such local body or company whether it desires that an appeal should be filed and agrees to bear the charges of litigation and submit a copy of its opinion to the Board together with the report under Standing Order No. 95 (i). If the local body or company does not wish to appeal, no appeal should be filed except with the special sanction of State Government. State Government is a necessary party in all proceedings in the civil courts subsequent to the passing of an award and the State Government must be represented by their law officers in all such proceedings in which the award is questioned, the charges incidental to their appearance being defrayed by the local authority or company under section 50 (1) of the Act. If a local authority or company elects to exercise the rights given to it by section 50 (2) of the Act to appear and adduce evidence for the purpose of determining the amount of compensation, it is at liberty to do so through the agency of its legal representative; but, as neither the local authority nor the company is actually a party in the proceedings, the appearance of its legal representatives for the purpose specified in section 50 (2) cannot replace the appearance of the law officers of the State Government to adduce evidence and argue the case on their behalf. In Madras City, it will be the duty of the Government Solicitor to appear in the court of reference and of the Government Pleader to appear on appeal to the High Court. The Government Solicitor will instruct the Government Pleader in the High Court only in cases in which he has appeared before the court of reference and in such cases the fees payable should be shared in the proportion of two-thirds to the Government Pleader and one-third to the Government Solicitor. In the mufassal, the Government Pleader of the district will appear before the court of reference. When the officer who passed the award or his successor is called on for instructions to be given to the Government Pleader in the mufassal or the Government Solicitor in the City of Madras, it is his duty to see that the evidence on record is sufficient for a successful defence of the award and to remedy any defects by recording fresh evidence. When an appeal is preferred to the High Court, the memorandum of objection should be drafted by the District Government Pleader or the Government Solicitor, as the case may be, and scrutinized by the Collector. The law officers are entitled to the regulation fee in accordance with the scale laid down in the Civil Rules of Practice on the value of the claim. In cases falling under section 25 (2) and (3) of the Land Acquisition Act, the value of the claim is that taken by the court for the purpose of taxation of costs or allowance of pleader's fee. In other cases, it should be taken as the difference between the amount claimed before the Land Acquisition Officer under section 9 or in any subsequent statement at the stage of demand for a reference under section 18 of the Land Acquisition Act, whichever is less, and the Land Acquisition Officer's award. In cases of extravagant claims, however, the Collectors have discretion to pay reduced fees under Standing Order No. 97 (2), sub-paragraph 6. Failure on the part of law officers to represent the proper method of computing the costs due to State Government in acquisition cases as laid down in Board's Proceedings Mis. No. 3149, dated 27th October 1927, is also a sufficient ground for sanctioning a lower fee under Standing Order No. 97 (2), sub-paragraph 6. Under section 50 (1)

of the Act, such fees should be paid to them through the Collector by the local authority or company concerned.

G.O. Mis. 1962, Rev., d. 6–10–27. B.P. Mis. 58, d. 7–1–28.
B.P. Mis. 3149, d. 27–10–27. G.O. Rt. 1145, Rev., d. 21–12–27.
G.O. Ms. 2065, Rev., d. 17–5–57.
G.O. Ms. 1592, Rev., d. 10–4–57.

17. *Revision of award duly announced not permitted.*—(i) An award made by a Collector under section 11 and duly announced under section 12 of the Act should not be revised or amended either by himself or by the District Collector even though the persons interested may consent to the revision or amendment.

B.P. 44, d. 1–2–96.

(ii) *Supplemental awards prohibited.*—The issue of supplemental awards is prohibited. Whenever it is found that any equitable claim has been overlooked in an award or that any mistake has been committed, the Collector should report the matter to the Board, submitting the explanation of the officers responsible for the omission or other irregularity.

G.O. 2664, d. 13–8–10. B.P. 230, d. 25–8–10.

18. (i) *Taking possession.*—When an award has been made, possession of the land (if not already taken under section 17 of the Act) can be taken at once and need not be deferred till the compensation is paid. Where, however, the claim for compensation is largely in excess of the award, possession should not be taken without a reference to the authority which has applied for the acquisition. The acquisition is completed by taking possession and the land then vests absolutely in the Government. Up to the moment of taking possession under the Act, State Government are at liberty to withdraw from the acquisition, but not afterwards.

G.O.Ms. 2219, Rev., d. 30–8–39. B.P. 88, d. 2–10–39.

(ii) *Land acquired for private institutions or associations.*—Whenever land is acquired under the Act for educational or other public purposes on behalf of private institutions or associations, the Collector should, after the award has been passed, take possession of the land which will then vest absolutely in the Government. He should then report the fact of having done so to the District Collector who should thereupon issue promptly a formal order alienating the land to the private institution or association concerned, subject to the conditions which will have been settled prior to the publication of the declaration under section 6 of the Land Acquisition Act. Simultaneously with the order directing the publication of the declaration under section 6 of the Land Acquisition Act, Government will have authorized the District Collector so to issue an order of alienation. In cases in which it has been decided that the land revenue also should be alienated, a single order alienating both the land and land revenue will suffice.

In respect of acquisition and transfer of lands to Co-operative Housing Societies, however, the Registrar of Co-operative Societies has

been empowered to execute an agreement, and transfer deed on behalf of the Governor, and the formal order of alienation of land, by the District Collector, will be dispensed with.

G.O. Ms. 3150, Rev., d. 19-12-40. B.P. 8, Press, d. 31-1-41.
G.O. Ms. 1863, Rev., d. 12-6-43. B.P. 12, Press, d. 19-7-43.
G.O. Ms. 1604, Rev., d. 31-5-50. G.O. Ms. 2065, Rev., d. 17-5-57.

19. *Record of transactions and correction of karnams' field measurement books and revenue survey maps.*—(i) In order to ensure the maintenance of a permanent record of the land acquired, it is essential that the changes which have been effected should be entered in the land registers and maps maintained by the Revenue Department, as well as in the registers maintained by the Registration Department. The following procedure should therefore be followed.

(ii) After the award has been passed, the Land Acquisition Officer if not himself the divisional officer, should see that the new field maps are inserted in the village copy of the field measurement books and invariably forward the papers to the divisional officer, together with a statement in the form printed in Appendix XII, Form 13, vide sub-paragraph (iii) below. The Divisional Officer will in all cases forward the statement to the Registration Department and will then forward to the tahsildar with a view to the necessary changes being made in the taluk and village accounts the plans mentioned in paragraph 13 (ii) above, the duplicate copies of revised field maps, the subdivision statements as prescribed under the rule relating to maintenance of revenue records and registration which are observed in the normal course of revenue administration and [a]statements of changes due to land acquisition in the form embodied in Appendix VIII with the number and date of the award noted on all of them. On receipt of these papers the Tahsildar will enter the changes in the taluk account No. 7 if there is any change in the classification of the land acquired and also in the taluk subdivision register No. 8-A if new fields or subdivisions have been formed. He will then forward the subdivision [a] statements and the statements of changes due to land acquisition [a] to the revenue inspector or taluk surveyor for incorporation of the changes in the village accounts. The latter will carry out the corrections in village account No. 3 and village A register, revise the stone registers and demarcation sketches and return the file to the taluk office with the necessary certificate. It will then be sent, together with the duplicate copies of the revised field maps, to the Circle Officer or District Surveyor, who will arrange to have the maintenance set of village maps corrected. On receipt back, the duplicate field maps should be inserted by the revenue draftsman in the proper place in the taluk copies of the field measurement books. The Tahsildar will then arrange to have the taluk copy of the A register corrected and a certificate that the register has been corrected inserted in the file. The papers will eventually be returned to the Divisional Officer. When no special staff is employed, the plans mentioned in paragraph 13 (ii) above, the subdivision statements as prescribed under the rules relating to maintenance of revenue records and registration which are observed

in the normal course of revenue administration and the [a] statements of changes due to land acquisition, if any, with the number and date of the award noted on all of them will be forwarded to the Tahsildar. On receipt of these papers, the Tahsildar will make the necessary entries in the concerned taluk registers and then carry out the procedure laid down in the rules relating to maintenance of revenue records and registration which are observed in the normal course of revenue administration in regard to the incorporation of the changes in the maps and accounts. The Revenue Inspector or Taluk Surveyor need not checkmeasure the subdivision, having already measured it, nor need he issue the notification under section 6 of the Survey and Boundaries Act as it has already been issued. He will, however, issue notices under section 9 (2) or 10 (2), as the case may be, of the Act. In the case of acquisitions made in surveyed municipalities, the same procedure will be followed, the only difference being that the functions assigned to the revenue inspector or taluk surveyor will be performed by the town surveyor. The latter will not only carry out corrections in the records with the karnam where this is necessary, but also correct the records in the municipal office. In the taluk office the changes will be embodied in the taluk maintenance set of town survey records. A disposal number should not be given to the acquisition papers until the above procedure has been carried out in its entirety.

[a] G.O. 2440, Rev., d. 20–11–29.	[a] B.P. 105, d. 28–11–29.
G.O. 861, Rev., d. 7–5–27.	B.P. 58, d. 30–4–34.
G.O. 542, Rev., d. 17–3–34.	B.P. 160, Press, d. 28–11–35.
G.O. Rt. 26, Rev., d. 17–1–44.	B.P. Press, 4, d. 3–2–44.

G.O. Ms. 2065, Rev., d. 17–5–57.

(iii) In order to ensure the maintenance of a permanent record of land acquired, information in the form printed as Appendix XII (Form 13) should invariably be furnished to the Registration Department in respect of land taken possession of under sections 16 and 17 of the Act. When fields have been resurveyed, both the new and the old survey numbers and subdivision numbers should be given in column 3 (*c*) of the statement. Every modification in a "Collector's" award made by a "Court" under parts III and IV of Act I of 1894 and every alteration in the form of compensation made by a "Collector" under section 31, clauses (3) and (4) of the Act subsequent to the award should be duly intimated to the Registering Officer concerned. Awards need not be separately registered under the Indian Registration Act.

G.O. 2124, Rev., d. 18–9–16.	B.P. Mis. 1692, d. 16–12–18.
G.O. 3809, Rev., d. 2–12–18.	B.P. 170, Sett., d. 18–7–17.
G.O. 542, Rev., d. 17–3–34.	B.P. 58, d. 30–4–34.

SECTION IV—PAYMENT OF COMPENSATION IN CASH.

20. *Instructions regarding payment.*—The instructions framed for regulating the payment of compensation for land acquired for public purposes as well as the audit of such payments are given in Appendix II. The following paragraphs contain the principal instructions on the subject.

G.O. Ms. 1698, Rev., d. 26–7–41. B.P. Press, 103, d. 18–9–41.

21. *Rules to be observed in making payment in cash.*—(i) [a] The payment of compensation should be made as soon after the declaration of the award as possible, as under section 34 of the Act, interest at the rate of 6 per cent per annum in cases of acquisition of land for the purposes of Central Government, and at the rate of 4 per cent per annum in cases of aqcuisition of land for purposes of the State Government is payable on the amount of compensation for the interval between the date of occupation and the date of payment. Accordingly the Collector or other officer duly empowered should, immediately after making an award under section 11, tender payment of compensation to such of the persons entitled thereto as are then present either personally or by their representatives.

Act XII of 1953. B.P. Mis. 1005 d. 2-9-55.
G.O. Ms. 158, Rev, d. 17-1-1958. G.O. Ms. 3043, Rev, d. 20-8-58.
G.O. Ms. 833 Rev, d. 18-3-1959.

(ii) To those who are not so present, a notice should at once be sent through the Tahsildar or the Deputy Tahsildar of the taluk or sub-taluk in which they reside intimating the fact that an award has been made and stating that, unless the amount awarded is claimed by the party either personally or through a duly authorized agent within a time to be specified, the money will be placed in deposit and will bear no interest. The notice should be served in the manner prescribed in section 45 of the Act.

(iii) If the Collector's tender is accepted by the parties present, or if the parties afterwards appear before him in person or by duly authorized agents to take payment, whether in pursuance of the notice served or otherwise, the Collector should take a receipt in the form C or CC printed in Appendix II, and make the payment at once, if possible, in cash, if not by an order on the treasury.

G.O. Ms. 1698, Rev., d. 26-7-41. B.P. Press 103, d. 18-9-41.

(iv) Where the offer of payment is accepted, but the parties are unable to appear before the Collector to receive the payment, the counter-foil receipt in form C should be filled up from the award statements, the space for the signature of the payee being left blank and the words "paid in my presence to" being altered into "pay to". The original should then be forwarded to the sub-treasury officer, within whose jurisdiction the parties entitled to payment reside, for disbursement of the amount to them. The sub-treasury officer will furnish the officer, who issued the pay orders, a periodical return of the payments made thereon [a].

[a] B.P. 370, d. 1-9-94.

(v) There is no objection to the payment of the compensation by money order at the expense of the parties concerned if they apply for such form of payment and agree to bear the money order commission. In the case of petty payments not exceeding Rs. 50 in each separate case, if the payees do not appear on the day fixed for payment or apply for a reference, to the civil courts under section 18, arrangements should be made to adjust the claims against Government dues, if any, or notices should be issued to them informing them that if they do not attend by a certain date, the compensation amounts awarded to them

will be remitted to them by money order, the amount of the money order commission being deducted. The following rules must be observed in making payments by money order :—

(1) Payment by money order should be confined to inland money orders only.

(2) In each money order so issued the purpose of the remittance should be briefly stated in the acknowledgment portion thereof in continuation of the printed entry "received the sum specified above on" sufficient space being left below the manuscript entry thus made for the signature or thumb impression of the payee. On receipt of the money order acknowledgment duly signed by the payee, it should be attached to the usual receipt in form C in which the full amount of the compensation and the deduction made therefrom on account of the money order fee should be clearly shown, the receipt will then be disposed of in the usual way. The Account Department will accept such voucher with the money order acknowledgment as a valid receipt for the full amount entered therein.

(3) For the words "Paid in my presence $\frac{\text{by cash}}{\text{by cheque}}$" in form C, the words "Paid by money order" should be substituted.

G.O. Ms. 1811, Rev., d. 30–7–40. B.P. 17, Press, d. 21–2–41.
B.P. 6, d. 17–1–31.

The Accountant-General will accept in the case of compensation paid by money order, a receipt for the amount entered in the award statement less the amount of the money order fee as a valid receipt for the full amount entered in the award statement.

G.O. Ms. 977, Rev., d. 1–4–14. G.O. Ms. 3428, Rev., d. 25–11–14.

(vi) If the parties do not take payment within the time specified and do not apply for a reference to the court under section 18 of the Act, the compensation money should be placed in revenue deposit and dealt with in the manner prescribed in rule 6 of Appendix II.

G.O. Ms. 1698, Rev., d. 26–7–41. B.P. Press, 103, d. 18–9–41.
B.P. 17, d. 14–1–1897.

(vii) The date of payment or the date of transfer to revenue deposits should be noted in the statement prescribed in Form A in Appendix II.

G.O. Ms. 1698, Rev., d. 26–7–41. B.P. Press 103, d. 18–9–41.

(viii) In each of the circumstances described in section 31 (2) of the Act, the Collector must deposit the compensation in court. Where the entire compensation is in dispute, the whole should be deposited, though some of the parties may have accepted the award. Where, however, only a portion of the compensation is so involved, that portion alone need be deposited.

Illustration.

A, B, C and D jointly own the land to be acquired. The first three claim a fourth share each, but D claims a half-share allowing only one-sixth each to A, B and C. The Land Acquisition Officer apportions the compensation equally among the four persons. A, B and C accept the award but not D. Here the entire compensation is in dispute, as in the

event of D's claim being allowed by the court, the shares due to the other joint owners will be affected; hence the whole amount should be deposited in court.

If all the four persons accept the award and the apportionment but one of them is not competent to alienate by reason of being a trustee or a minor, etc., only the amount apportioned in favour of that person need be deposited in court.

G.O. Ms. 3157, Rev., d. 19-12-40. B.P. 17, Press, d. 21-2-41.

22. *Payment into court.*—[a] Rule 8 of the rules printed in Appendix II provides that all payments into "Court" on deposit should be made by means of cheques in favour of the presiding officer of the court. The limit of Rs. 10 laid down in Subsidiary Rule 45 under Treasury Rule 16 of the Madras Treasury Code, Volume I does not apply to these cheques. Officers specially employed for land acquisition are regarded as Public Works Disbursers and are supplied with cheque books by the Accountant-General through the treasury officer.[a] [b]Civil officers who are not so supplied will fill in form C with their own name, official designation, and signature and endorse it across as follows :—

Pay to the Judge of the Court at or order the sum of
Rupees * naye Paise * only.
Rs. †

To
The Treasury Officer at

Dated 19 . Official designation.

The voucher will then be forwarded with form D, in triplicate, to the court concerned.[b]

[a] B.P. 91, d. 7-3-96.
G.O. Ms. 2586, Rev., d. 12-11-41.
G.O. Ms. 1698, Rev., d. 26-7-41.

[b] B.P. 164, d. 11-5-96.
B.P. Mis. 3135, d. 21-11-41.
B.P. Press, 103, d. 18-9-41.

* G.O. R. 161, Rev., d. 15-3-57.

SECTION V—SETTLEMENT OF COMPENSATION OTHERWISE THAN IN CASH.

23. *General rules.*—(i) When land in an impartible estate is acquired under the provisions of the Land Acquisition Act, the compensation awarded to the proprietor of the estate should be paid to him in cash in cases where the land is acquired for a public religious or a public charitable purpose; but in cases in which the land is acquired for any other purpose the compensation awarded to the proprietor should be deposited in court under section 31 (2) of the Land Acquisition Act.

G.O. Ms. 1833, d. 20-9-27.

(ii) Under the third and fourth clauses of section 31 of the Act, it is open to the Collector to arrange with the persons entitled to compensation for a commutation of the money payment awarded under section 11 into **a grant of other land in exchange** [clauses (iii) and (v) below and paragraph 25 generally] or of a **beriz deduction** [paragraph 25, clause

* In words. † In figures.

(ii) (*b*)] or **an assignment of assessment** [paragraph 26] or if such person be zamindar or inamdar, into a **reduction of peshkhash or quit-rent** [**note** to paragraph 30] as the case may be. Compensation for unenfranchised service inams of all kinds should, as a rule, be settled in one of these ways, as the grant of a single payment in cash might cause the extinction of the service.

(iii) Under clause 3 of the section referred to, if the party has a limited interest in the land acquired and is incompetent or only partially competent to contract in respect of the land, if for example, he is the trustee of a temple, the sanction of the State Government must be obtained for making any of the above arrangements in lieu of payment in cash. Applications for such sanction must be submitted in the form given in Appendix XII (Form 14).

(iv) [a] In cases falling under clause 4 of section 31, i.e., where the person interested in the land is competent to contract in respect thereof, the sanction of State Government is unnecessary when the Collector with the previous sanction of the District Collector decides to grant in exchange land on ryotwari tenure and such cases may be dealt with by the Collector on his own authority.[a] [b]The case of a village artisan as well as that of a person holding a village officer's inam has been held to fall under section 31 (4) on the ground that though the inamdar is not competent to contract with private individuals in respect of the land, still he may enter into a valid contract in respect of the same with the Government.[b]

[a] B.P. 530, d. 30–11–94.
[a] G.O. Ms. 5715, d. 6–11–97.
[a] B.P. 402, d. 16–11–97.
[b] B.P. 10, d. 15–1–95.
[b] G.O. 8, d. 7–1–95.
[b] B.P. 176, d. 1–6–95.
B.P. 65, d. 24–3–02.

(v) Land granted in exchange under clauses (3) and (4) of section 31 of Act I of 1894 should ordinarily be selected from the extent at the disposal of State Government, and preferential claims advanced in respect of such land under the darkhast rules may be set aside, provided that by so doing the *bona fide* and reasonable requirements of resident ryots will not be prejudiced.

(vi) It is entirely optional on the part of the Collector to grant land in exchange for [c] enfranchised inams,[c] [d]unenfranchised personal inams,[d] [e] zamindari land [e] or [f] ryotwari land [f] taken up under the Act. In all such cases the fresh grant of land should be made on ryotwari tenure, the grant of inam tenure, of beriz deductions, of fixed remissions or of any other permanent alienation of State Government revenue by way of compensation being prohibited except in accordance with paragraph 25.

[c] B.P. 176, d. 1–6–95.
[d] B.P. Mis. 3482, d. 30–7–96.
[e] B.P. 325, d. 6–9–95.
[f] B.P. 127, d. 10–6–02.
[f] B.P. 65, d. 24–3–02.

Note.—Private land should not be acquired in order to be granted in exchange for land of any of the above descriptions. In the case of land held on ryotwari tenure by religious or charitable institutions and acquired under the Act for public purposes, if there be no land at the disposal of State Government which can conveniently be assigned in exchange, the compensation payable in cash should be deposited in court under section 31 (2) of the Act.

G.O. 415, d. 12–5–02. B.P. 127, d. 10–6–02.

(vii) In arranging for exchanges of land, the Collector should ordinarily deal only with the party in whose favour the money compensation has been awarded, and not with those to whom such party may, for a consideration, have transferred his right to receive compensation in kind.

(viii) Proposals for the settlement of compensation otherwise than in cash may be made by officers exercising the powers of Collectors under the Act, but the terms of such settlement will be subject to approval and revision by the Collector of the district. The State Government, however, are the final authority to sanction the proposals except when the settlement is to be made with a person competent to contract in respect of the land acquired and the Collector decides to grant in exchange land on ryotwari tenure or when the compensation is to take the form of an annual payment of a beriz deduction or the grant of a fixed remission equal in amount to the assessement payable on the land taken up.

G.O. Ms. 320, Rev., d. 11-2-41. B.P. 35, Press, d. 17-3-41.

(ix) To minimise delay in the completion of the arrangement for the grant of fresh land in exchange, the revenue officer will, while making inquiries as to the extent and value of the land to be acquired for the preparation of the notification under section 4 of the Act, also ascertain in the case of unenfranchised service inams whether there is any land in the same or in an adjoining village which could be given to the inamdar in exchange. He will embody the information in his report about the inam land to be acquired or in a separate report immediately thereafter.

24. *Payment of interest where compensation is awarded otherwise than in cash.*—In cases in which no money compensation is paid but it is proposed to compensate the owner by the grant of other lands or in some other way as is contemplated in section 31 (3) of the Act, the owner will be entitled to interest only if the arrangement made by the Collector under this section provides for its payment; but a stipulation should usually be made in any agreement under section 31 (3) of the Act that interest shall not be claimed under section 34 unless there has been undue delay, for which the State Government are to blame, in the grant of the compensation agreed upon under section 31 (3).

25. *Special rules for compensation for unenfranchised service inams.*—(i) The essential part of religious and charitable inams is the assignment of revenue due to State Government; and this assignment or an equivalent thereof should be secured to the inamdar in the settlement of compensation. Except therefore in the special cases described in clause (ii) of this paragraph it is only necessary to secure the continuance to the inamdar, without diminution or enhancement, of the assignment of State Government revenue guaranteed to him at the inam settlement or (if his inam is unsettled) at the date of the creation of the inam and this can most conveniently be done by the grant of a beriz deduction or fixed remission equal in amount to the State Government

revenue to which the inamdar is entitled, compensation for the kudivaram interest being paid in cash to the person entitled to it, whether he be the inamdar or not, if he is competent to contract in respect of the land. Otherwise the amount of compensation for the kudivaram interest should be paid into court. In the latter case proposals for temporary beriz deduction should be submitted as laid down in note 2 to paragraph 28 below.

Note.—In whole inam villages held as unenfranchised service inams, the inamdar's net rental may exceed the guranteed assessment. The inamdar's income should be ascertained according to the instructions in Chapter XVII, paragraph 3, Part III of the Land Acquisition Manual. The guaranteed assessment on the land acquired should be converted into a beriz deduction. The difference between the guranteed assessment and the total income on the land acquired should be capitalized and compensation paid in cash.

G.O. Ms. 2412, Rev., d. 5-12-44. B.P. Press, 43, d. 22-12-44.
G.O. Ms. 2231, Rev., d. 26-9-28.

(ii) (*a*) But in the case of unenfranchised religious and charitable inams granted within sixty years of their acquisition and in the case of all unenfranchised village service and village artisan inams, if there are reasonable grounds for holding that the original grant included both the land and the assessment (as for example, where the land was unoccupied waste at the time of grant), it is necessary to secure to the inamdar not only the continuance of the assignment of revenue to which he is entitled but also the continuance in a permanent form for the benefit of the service of the income from the land, and the most convenient method of doing this is to select a piece of land at the disposal of State Government of the value of the sum awarded as compensation in accordance with paragraph 14 supra and to grant the selected land on inam tenure in accordance with the following instructions :—

(1) If the assessment of the selected land and that foregone on the land taken up under the Act is the same, the fresh grant should be on inam tenure, the whole of the assessment being foregone.

(2) If the selected land bears a less assessment than that foregone on the land taken up, the difference of assessment should be made good as a beriz deduction in favour of the inamdar and the selected land should also be given him as an inam free of all assessment.

(3) If the selected land bears an assessment higher than that foregone on the land taken up, the difference should be imposed as a jodi on the land granted in exchange which will otherwise be free of assessment.

(*b*) If there is no land at the disposal of State Government available for the purpose of being granted in exchange, the annual payment of a beriz deduction or the grant of a fixed remission equal in amount to the assessment foregone on the land taken up together, if need be, with a single payment in cash to the inamdar if he is competent to contract or otherwise into court on account of the sum awarded under paragraph 14 supra, will often meet the requirements of the case ; but if the value of the land taken up is considerable, private land may be acquired under the Act and granted in exchange on inam tenure in one of the three ways indicated.

B.P. 124, d. 18-6-18. G.O. Ms. 2231, Rev., d. 26-9-28.

26. *Consent of occupant necessary to assignment of assessment.*—Compensation in the shape of an assignment of the assessment due to State Government on occupied land should not ordinarily be given without the previous consent of the occupant of the land, or in any case other than that of unenfranchised service inam land taken up under the Act.

B.P. 137, d. 28-1-97. **B.P. 65, d. 24-3-02.**

27. *Record of transactions under this section.*—(i) When a portion of land forming an inam other than an unenfranchised service inam is taken up under the Act, the fact should be recorded by endorsement on the title-deed; when the whole of such land is taken up the title-deed should either be cancelled or, if it is not forthcoming withdrawn by notification in the district gazette.

(ii) When unenfranchised service inam land (including religious and charitable inams) is acquired under the Act, the inamdar should be called upon to produce his title-deed and, if produced, it should be endorsed by the Collector with a certificate in the following form, with necessary modifications: "Certified that of the land included in this title-deed . . . acres have been acquired by State Government under Act I of 1894 and that compensation has been given to the inamdar by the grant of . .

acres of land in survey No. ______ of ______ village assessed at ______

an assignment of revenue of the value of ______ payable annually

to be held $\frac{\text{free of assessment}}{\text{on a quit-rent of}}$ ______ ______ subject to the condition

on Survey No. ______ of ______ village

specified in this deed."

If the title-deed is not produced, a separate certificate should be issued to the inamdar in a similar form specifying explicitly, the conditions of the tenure of the land granted or of the enjoyment of the revenue assigned.

(iii) Whenever land is granted in exchange, the Collector should also forward a report in the form given in Appendix XII—Form 15 to the Registration Department for incorporation in the records of that department.

(iv) [a] Village officers should be instructed to enter all orders relating to fresh grants of land in village account No. 3 and to note the necessary changes in permanent registers 'A' and 'B'. When lands in a different village from that in which lands have been taken up are assigned in exchange, the fact should also be noted in the accounts of the former village, the particulars of the fields granted being shown if necessary in register 'B'. Officers conducting jamabandi should see that the above instructions are duly carried out.[a]

[a] **B.P. 519, d. 28-11-94.** **B.P. 65, d. 24-3-02.**

28. *Procedure when undue delay occurs in settling compensation otherwise than in cash.*—If in any case, in which it is proposed to arrange for the grant of compensation otherwise than in cash, such arrangement has

not been completed within a reasonable period, which should not ordinarily exceed six months from the date of the award, the Collector should, if the case falls under clause (vi) of paragraph 23 above, pay the compensation in cash, or if the case falls under paragraph 25 above, deposit in court under section 31 (2) of the Act the amount awarded under paragraph 14 (i) (1) above and seek the orders of the Board as regards the assignment of assessment [a] unless he is himself competent to sanction the assignment under paragraph 23 (iv) supra.[a] Once the amount is deposited in court the Collector has no further statutory responsibility other than the liabilities imposed by section 32 (2) of the Act. But executive instructions have been issued by the High Court to the effect that purchases of fresh land should be effected under the court's orders through the Collector of the district. In every case in which the court directs the purchase of land with the money deposited the Collector should on receipt of the court's reference cause departmental enquiries to be made in regard to the title and value of the land which it is proposed to purchase and take the necessary steps to complete the transaction. As required by section 32 (1) (*a*) of the Act, the land so purchased should be granted on inam tenure agreeably to the instructions contained in paragraph 25 supra.

G.O. 3170, d. 19-11-09. B.P. 295, d. 15-12-09.
[a] B.P. 362, d. 5-12-15.

Notes.—(1) The provisions of Part II of the Act should not be applied to effect a purchase of land ordered by the court under section 32 of the Act.

B.P. 97, d. 5-4-07.

(2) As soon as the amount awarded for the occupancy right is deposited in court, the Collector should at once submit proposals for the grant of compensation for the melvaram right by way of beriz deduction as a temporary measure, i.e., until other land is purchased under the orders of the court[a] unless he is himself competent to sanction the arrangement under paragraph 23 (iv) supra[a]. In doing so, he should also take into account the proportionate share of the annual assessment to which the inamdar may be entitled for the period during which he had been deprived of the assignment of revenue, i.e., the unexpired portion of the fasli in which the inam land was taken possession of.

[a] B.P. 362, d. 5-12-15.

29. *Cases not provided for.*—Cases which do not fall within the scope of the foregoing rules or in which the Collector may consider it desirable to invest the amount awarded as compensation in the form of Government promissory notes should be reported for the orders of the Board.

B.P. 65, d. 24-3-02.

SECTION VI—MISCELLANEOUS.

30. *Proportionate reduction of peshkash or quit-rent how worked out.*—Whenever zamindari or inam land is taken up for public purposes, the zamindar or inamdar will, in addition to compensation for his interest in the land taken up, be entitled to a proportionate reduction of his total peshkash or quit-rent, the amount to be deducted bearing the same proportion to the rental of land taken up as the whole amount of peshkash or quit-rent bears to the total revenue of the estate.

Note.—The proportionate reduction of peshkash or quit-rent above referred to should be distinguished from the grant of a further reduction of peshkash or quit-rent by way of compensation which is a form of fixed remission and is permissible only in case the holder of unenfranchised service inam land taken up under the Act happens to be a zamindar or to hold some other inam for which he pays quit-rent—vide paragraph 23, clause (vi) and paragraph 25, clause (ii) (*b*) supra.

B.P. 267, d. 27-1-85. B.P. 1115, d. 19-4-85.
B.P. 497, d. 29-8-93. B.P. 70, d. 9-2-94.
B.P. 65, d. 24-3-02.

31. *Acquisition of land for local bodies.*—When land is acquired under the Act for a local body, the full cost of the acquisition should, in the absence of general or special orders of Government applicable to the particular cases, be charged to the local body concerned. Two exceptions to this rule are, however, permitted. One is that, in the case of land required for *roads*, the Collector may acquire it at the cost of the State Government provided the compensation given takes the form of a fresh grant of land at the disposal of Government and not of money. The other is that, in cases in which unenfranchised service inam lands are acquired for a local body and a beriz deduction or other assignment of revenue is granted as compensation for the *melvaram* right, it is unnecessary to recover from the local body an equivalent for the loss incurred by Government in granting the beriz deduction or assignment of revenue. When unenfranchised service inams are acquired for a local body and other lands have to be acquired for grant in exchange for them, the local body should pay the full cost of the acquisition of the latter.

The title to the land acquired at the cost of a local body passes to that body on payment of compensation by it and no conveyance by the Government either by assignment or by placing the land at the disposal of the local body is necessary. But in cases where land is acquired at the cost of the State Government and compensation therefor is paid by them in one or other of the ways permitted under the Act, the land acquired will become a State land and the local body will not acquire any rights in or control over it, until it is formally granted under Standing Order No. 24.

G.O. 285, Rev. d. 10-4-91, B.P. 366, L.R., Press, d. 23-6-91, B.P. 98, Press, d. 16-5-05, B.P. 88, Press, d. 28-8-19 and B.P. 8, Press, d. 31-1-33. G.O. 3149, Rev., d. 19-12-40; B.P. Mis. 1100, d. 24-4-41.

31-A. *Acquisition of land for irrigation, navigation, embankment and drainage works.*—The principles to be followed in regard to the assessment of compensation for land required in *British India* and the Indian States for irrigation, navigation, embankment, buildings, roads, bridges, water-supply schemes, and drainage works, and works connected with or subsidiary to them undertaken by a State Government or Local Administration in *British India* and *vice versa* are laid down in the Memorandum of the Government of India printed as Appendix III.

G.O. Ms. 1201, Rev., d. 5-6-1946, and Govt. Memo. 1556-F/46-2, d. 4-6-1946.
B.P. Press, 23, d. 3-10-46.

31-B. *Acquisition of land for house-sites in rural areas for the communities eligible for the ameliorative measures undertaken by the Harijan Welfare Department and for landless labourers.*—The rules and instructions for the acquisition and assignment of house-sites for the communities eligible for ameliorative measures by the Harijan Welfare Department and for landless labourers and for the grant and recovery of the advances that may be made by the State Government for the purpose are given in Appendix IV.

G.O. Ms. 1306, Rev., d. 7-6-41. B.P. Press, 72, d. 10-7-41.
G.O. Ms. 102, Rev., d. 7-1-57. B.P.Mis. 595, d. 6-5-57.
G.O. Ms. 2065, Rev., d. 17-5-57.

31-C. *Acquisition of land for Central Government.*—When land is acquired on behalf of the Central Government the acquisition shall be at the expense of the Central Government. The cost of acquisition will include the market value of the land and the buildings thereon, if any, and the solatium of 15 per cent payable under the Land Acquisition Act. The Central Government will also pay to the State Government the capitalized value of land revenue where the acquisition of such lands for the Central Government causes *actual* loss of land revenue to the State Government.

G.O. P. 1725, Rev., d. 21-9-45.
Revenue Department's Memo. No. 3773-E/45-1, d. 17-11-45.
B.P. Press, 35, d. 26-11-45. G.O. Ms. 2065, Rev., d. 17-5-57.

32. *Disposal of land which is no longer required for the public purpose for which it was acquired.*—

Notes.—(1) No land shall be disposed of, under this paragraph, to any person other than a citizen of India, except by the Collector or the Board and with the previous permission of State Government. Every grant made under this paragraph shall be subject to the condition that, if the land is alienated without the sanction of Government in favour of any person other than a citizen of India, the grant shall thereupon become null and void.

G.O. 1867, Rev., d. 13-5-18. G.O. Ms. 2065, Rev., d. 17-5-57.

(2) No application for sale of land under this Standing Order to a company, association or society should be considered unless such company, association or society is a company within the meaning of that word in Section 3 (1) (i) of the Companies Act, 1956 (Central Act I of 1956) or has been registered under the Societies Registration Act, 1860 (Central Act XXI of 1860), the Religious Societies Act, 1880 (Central Act I of 1880), the Madras Co-operative Societies Act, 1932 (Madras Act VI of 1932), Multi-Unit Co-operative Societies Act, 1942 (Central Act VI of 1942), the Insurance Act, 1938 (Central Act IV of 1938), the Indian Trade Unions Act, 1926 (Central Act XVI of 1926), or by an Act of Parliament of the Union of India or of the State Legislature in the Union of India. The above order insisting on registration does not apply to Roman Catholic Churches, dioceses, other Roman Catholic Missions and Congress Organizations.

G.O. Ms. 2649, Rev., d. 12-10-49. B.P. Press, 25, d. 12-7-50.
B.P. Press, 20, d. 19-11-53. G.O. Ms. 2065, Rev., d. 17-5-57.

[a] When land acquired for a public purpose, is subsequently relinquished, it should be disposed of as follows :—

(i) If the land relinquished is likely to be again required for public purposes, it should be merely leased out for such term as may be considered desirable in each case.

[a] B. P. 207, d. 19-6-97.

(ii) If the land is situated within half a mile of the boundary of a railway station, it should be dealt with under the special rules applicable to such land, which are given in Standing Order No. 15, paragraph 38, clause (x).* [c] If under those rules it can be assigned permanently it should be disposed of under clause (iv) below[c].

(iii) If the land does not fall under either of the above descriptions and was originally building site or town land, it should be disposed of under the rules—governing the disposal of Government land of this kind—vide Standing Order No. 21.* [k] Such lands relinquished by the Departments of the Central Government should be sold in auction like town sites through the agency of the revenue divisional officers and the sale-proceeds credited to the department to which the cost of acquisition was originally debited.[k]

[c] G.O. Ms. 1763, Rev., d. 28-8-37. [k] B.P. 36, Press, d. 20-4-38.

(iv) If the land is not declared unfit for permanent occupation under clause (i) or (ii) above and was agricultural or pastoral land at the time of the acquisition, it should be disposed of in accordance with the following instructions which should not be deviated from without the previous sanction of State Government :—

Such lands should be notified for sale in public auction by giving wide publicity in respect of the sales in the villages by beat of tom-tom and by affixing notice of sales in conspicuous places in the villages concerned. The date of sale should be fixed allowing an interval of thirty days between the date of publicity and the date of sale. The lands should be sold by public auction subject to the annual assessment. There shall be no upset price except in the case of railway relinquished lands where a minimum or upset price should be fixed in consultation with Railway Administration before auction. If at the time of sale, anybody puts forth his claim in respect of any field either as an adjacent owner, or as an original owner or as heir of the original owner, the sale of that field should be stopped and his claim investigated and disposed of in the manner specified in sub-clauses (2) and (3). If it is found that his claim is not proved, the field should be sold by public auction.

G.O. Ms. 989, Rev., d. 17-5-45.
G.O. Ms. 2888, Rev. d 29-11-45.
B.P. Press 15, d. 2-6-1945.
B.P. Mis. 1702, d. 11-12-1947.

(2) (*a*) Where the land is useless to anyone but the adjacent owner, or

(2) (*b*) where its possession by any person other than the adjacent owner would interfere with the full enjoyment of the adjoining property by its owner, it should first be offered to the adjacent owner at full market value.

(3) In cases where the circumstances described in (2) (*a*) and (2) (*b*) do not exist, or where the adjacent owner does not, after due notice, accept the offer, the land should be offered at cost price to the parties to whom the proprietary right and the right of occupancy, if any, in the land originally belonged or to their heirs.

* B.S.Os., Vol. I.

Note.—When action is taken under sub-clause (3) above and where both kinds of rights, viz., proprietary rights and rights of occupancy co-existed and were held by different persons prior to the acquisition, the grant of the proprietary rights should be made subject to the occupancy rights under the provisions of the Government Grants Act (Act XV of 1895). The price at which these rights are offered to the original owner, should be the amount of compensation originally paid for them less the 15 per cent solatium if any. This price may be reduced if necessary, on account of any deterioration of the land that may have taken place while it was in the occupation of Government, but it should not be increased on account of any rise in its market value during that period.

(4) The sale-proceeds of the lands will be credited to Land Revenue unless the land was originally taken up for a Railway or other department of the Central Government or for irrigation project or State Irrigation Works for which Capital and Revenue accounts are kept. In these cases, the sale-proceeds should be credited to the Railway or other Department of the Central Government, Irrigation project or work or head of account to which the cost of acquisition was originally debited.

G.O. Rt. 161, Rev., d. 15-3-57.

(5) If the land is assigned on ryotwari tenure, no special form of title-deed is necessary. A simple order of grant as in the case of a darkhast under Board's Standing Order No. 15 will be sufficient. As regards grants of lands on proprietary tenure, title-deeds should be issued by Collectors in the forms given in Appendix XII—Form 17.

G.O. Ms. 1005, Rev., d. 3-5-41. B.P. Ms. 3065, d. 15-11-41.

(v) Collectors are competent to dispose of lands in accordance with the instructions in clause (iv) above. The orders of the Collector for such disposal should be obtained by the Tahsildar by an application in the form given in Appendix XII—Form 18.

B.P. Press, 73, d. 9-8-40 ; G.O. Ms. 1552, Rev., d. 24-6-40.

(vi) [g]When lands are sold under clause (iv) subject to ryotwari assessment, it should be stipulated in the sale notice that the assessment on the land will be liable to alteration at any general revision of the land revenue settlement of the district.[g]

B.P. 207, d. 19-6-97.	B.P. 392, d. 12-11-97.
G.O. 2940, d. 5-9-10.	B.P. 195, d. 30-8-05.
B.P. 266, d. 23-9-10.	[g].G.O. 557, d. 14-6-05.
B.P. 162, d. 17-5-97.	[g].B.P. 147, d. 12-7-05.
B.P. 290, d. 4-1-98.	B.P. 8, d. 6-2-29.
G.O. Mis. 114, Rev., d. 18-1-29.	G.O.Ms. 1592, Rev., d. 10-4-57.

(vii) It should be understood that all grants of land under clause (iv) above are made as matters of grace and that the State Government have full discretion to allow or refuse these concessions.

B.P. Press 73, d. 9-8-40 ; G.O. Ms. 1552, Rev., d. 24-6-40.
G.O.Ms. 2065, Rev., d. 17-5-1957.

33. *Statement of pending Land Acquisition Cases.*—(i) Collectors should submit to the Board before the 20th of the month succeeding each half-year a statement showing the disposal of land acquisition cases in Form No. 20 (*a*) in Appendix XII, B.S.O. No. 90, with their reviews and with details of pending cases over one year in Form No. 20 (*b*).

B.P. Press 10, d. 25-5-44.

(ii) [i] The statement submitted to the Board should include the transactions of special land acquisition officers, and when the jurisdiction of such officers extends over more than one district, each Collector should include in the statement for his district the transactions within the limits thereof[i]. [j] The statement should exclude cases of land acquisition dealt with by forest settlement officers.[j]

G.O. 1693, d. 6-6-11. [i] B.P. 391, d. 25-10-95.
B.P. 119, d. 12-4-15. [j] B.P. 92, d. 8-5-18.

34. *Checkmemorandum to be appended to land acquisition files.*—A checkmemorandum in the form printed in Appendix XII—Form 21 should be appended to all land acquisition files. When the papers are finally recorded a copy of the checkmemorandum should invariably be submitted to the Collector whose duty it will be to see that the correct procedure has been followed and that where necessary, immediate steps are taken to supply omissions or rectify errors. The scrutiny of the checkmemorandum from a land records point of view will be carried out by the Circle Officer or District Surveyor. In cases in which a special officer has been appointed under paragraph 5, if the special duty continues long enough, the divisional officer should on receipt from the tahsildar of the subdivision records and [a] statements of changes due to land acquisition[a] referred to in paragraph 19 (ii) above after the incorporation of changes in the village and taluk accounts, forward these papers to the special officer and at the same time furnish him with information to answer questions 30, 31, 32 (*b*), 33 and 35 of the checkmemorandum. Should, however, the special duty expire before the papers can be finally recorded, the special officer will answer as many as possible of the questions in the checkmemorandum and then transfer the files to the divisional officer. The latter, after completing all further action, will answer the remaining questions, record the papers and submit a copy of checkmemorandum to the Collector.

B.P. Mis. 2865, d. 27-8-28. G.O. 2275, Rev., d. 29-9-28.
[a] G.O. 2440, Rev., d. 20-11-29. [a] B.P. 105, d. 28-11-29.
G.O. 542, Rev., d. 17-3-34. B.P. 58, d. 30-4-34.
G.O. R. 26, Rev., d. 17-1-44. B.P. Press, 4, d. 3-2-44.

91. **Rules relating to transactions with Railways**.—Rules for the guidance of the Revenue officials in the acquisition and demarcation of land for railway purposes are laid down in Railway Board's Circular No. 889-P-16, dated 30th August 1918,[a] as amended in the Railway Board's Circulars Nos. 889-P, dated 25th January 1921, 4th October 1921, 17th December 1923, 16th June 1924 and 7th August 1924, 877-W/23, dated 2nd July 1924, and 889, Tech., dated 15th May 1926, 24th February 1927, 4th March 1927 [a] and [b] 8th June 1928 [b]. All correspondence should in future be addressed to the Secretary to Government, Revenue Department, and all preliminary arrangements referred to in paragraphs 9 and 13 of the Railway Board's Circular will be settled by the General Manager, Southern Railway in direct communication with the Collector of the district.

[a] G.O. 2016, Rev., d. 13-10-27. [a] B.P. 73, d. 20-10-27.
[b] G.O. 1791, Rev., d. 7-8-28. [b] B.P. 82, d. 11-8-28.

G.O. Ms. 2065, Rev., d. 17-5-57.

Note.—An abstract of the orders issued by the Government of India and the Railway Board from time to time regarding the acquisition, transfer, relinquishment and leasing of land on railways is printed as Appendix V.

2. Classification of land required for railways—

In the case of railways constructed by Union Government, land is divided into two classes :—

I. Permanent land, i.e., land which will be required permanently after the work of construction is complete and the railway is open to traffic.

II. Temporary land, i.e., land which is required for temporary purposes only and which should be relinquished after the work of construction is complete.

G.O. 1592, Rev., d. 10-4-57.

3. [a] (i) *Transfer of Government land to Railway Administration.*—Whenever Government land registered as assessed waste or poramboke is required for a railway, the Collector of the district should transfer it to the Railway Administration and debit the market value thereof to the capital accounts of the railway except—

(*a*) when the land required is poramboke vested in a local body, or

(*b*) when it is considered desirable to retain some right over the land or to impose any conditions or restrictions, in which cases the sanction of the State Government should be obtained. [a]

G.O. Ms. 1592, Rev., d. 10-4-57.

(ii) *Transfer to Railway Administrations of lands set apart for the common use of villagers in estates as defined in the Madras Estates Land Act* (*I of* 1908) *as amended by Madras Act XVIII of* 1936.—(*a*) If the lands are required temporarily, the District Collector should have no difficulty in arranging for the occupation and no formal proceedings will be needed.

(*b*) If the lands are required permanently, they should be acquired under the Land Acquisition Act. No distinction should be drawn between cases where the District Collector considers the reversionary right of the Government to be clear and those in which he does not. Awarding officers should deal with such cases as if no one is competent to alienate the land and apply to the Civil Court for the provision of other land in lieu of it.

G.O. Ms. 213, Rev., d. 29-1-41. B.P. 14, Press, d. 17-2-41.
G.O. Ms. 2065, Rev., d. 17-5-57.
[a] G.O. 2699, d. 30-12-97.
[a] G.O. 2355, Rev., d. 22-11-27. [a] G.O. 2174, Rev., d. 1-11-27.

4. *Relinquishment of land held by a railway in excess of requirements.*—(1) The policy of the Railway Board is to limit the holdings of a Railway administration to actual requirements, present and prospective. When a certain area in the occupation of a Railway administration is no longer

required for the effective discharge of the duties of the Central Government (Railway Department) it should classify it as "eligible for relinquishment" and arrange for its disposal either direct or through the agency of the State Government (if they are willing to undertake it) in accordance with the rules laid down in section VI of the revised Land Acquisition Rules printed in Appendix V to Board's Standing Order No. 90.

(2) When the intention of a Railway administration in relinquishing an area is to transfer it to any other Railway or Department of the Central Government this intention should be communicated to the Collector who will arrange for the transfer of the land accordingly. When a Railway administration relinquishes a land *outright* the Collector should undertake its disposal. If, however, the land relinquished is occupied by a building or buildings, the Collector should not take it over without the orders of the State Government. The following procedure should be followed in the disposal of lands relinquished *outright* :—

(i) The Collector should take charge of the relinquished lands from the Railway administration and should ordinarily dispose of them in accordance with the principles laid down in clause (iii) or (iv) of paragraph 32 of Board s Standing Order No. 90. Lands which were at the disposal of the State Government at the time of their transfer to the railway should be disposed of by sale as if they were specially valuable lands dealt with under Board's Standing Order No. 15, unless they are required for any public purpose. The Board may sanction the classification of such lands as poramboke. The orders of State Government should, however, be obtained through the Board of Revenue in

(*a*) cases in which the Collector considers that the land may be required for any department of State Government ;

(*b*) cases in which there is any doubt whether the land relinquished is land for which the Railway administration should be paid ; and

(*c*) cases in which any special difficulty or question of importance arises for consideration.

(ii) When a reasonable price is not likely to be obtained by the immediate sale of the land outright, there is no objection to the Collector retaining the land until an offer more commensurate with its value is obtained provided that the sale is not delayed for a period dis-proportionate to the anticipated increase in the price. In such cases all that is necessary is to ensure that, until sold, the land continues to be shown as belonging to the Railway in the revenue accounts.

B.P. 62, Press, d. 15-8-39. G.O. Ms. 1860, Rev., d. 24-7-39.
B.P. Press, 17 (M), d. 17-12-42, G.O. Ms. 2611, d. 20-11-42.

Note.—(*a*) No land shall be disposed of under this Standing Order to any person other than a citizen of India, except by the Collector or the Board and with the previous permission of Government. Every grant made under this paragraph shall be subject to the condition that, if the land is alienated without the sanction of Government in favour of *any* person other than a citizen of India, the grant shall thereupon become null and void.

(*b*) No application for sale of land under this Standing Order to a company, association or society should be considered unless such company, association or society is a company within the meaning of that word in Section 3(1) (i) of the Companies Act 1956 (Central Act I of 1956) or has been registered under the Societies Registration Act, 1860 (Central Act XXI of 1860), the Religious Societies Act, 1880 (Central Act I of 1880), the Madras Co-operative Societies Act, 1932 (Madras Act VI of 1932), Multi-Unit Co-operative Societies Act, 1942 (Central Act VI of 1942), the Insurance Act, 1938 (Central Act IV of 1938), the Indian Trade Unions Act, 1926 (Central Act XVI of 1926) or by an Act of Parliament of the Union of India or of the State Legislature in the Union of India. The above order insisting on registration does not apply to Roman Catholic Churches, dioceses, other Roman Catholic Missions and Congress organizations.

G.O. Ms. 2649, Rev., d. 12-10-49. B.P. Press, 25, d. 12-7-50.
B.P. Press, 20, d. 19-11-53. G.O. Ms. 2065, Rev., d. 17-5-57.

(iii) The sale proceeds of all lands relinquished, less any charges properly incurred in their disposal, should be credited to the capital account of the Railway Administration.

G.O. Ms. 1592, Rev., d. 10-4-57.

Note.—As in the case of acquisition, the State Government may be reimbursed the cost of special establishment employed in connection with relinquishment proceedings.

G.O. Ms. 2065, Rev., d. 17-5-57.

(3) *Lands acquired by a Railway Administration for road, channel, etc., diversions—Classification.*—The Indian Railways Act IX of 1890, imposes on the Railway Administration the duty of making suitable provision for interruptions caused to the public highway or waterway by the formation of the railway. For making this provision, lands outside the permanent railway boundary are acquired at the cost of the Railway Administration for public purposes such as the permanent diversion of roads or rivers or other works incidental to the construction of the railway. On completion, the diversions and other works will not be maintained by the Railway Administration but by the authority which maintained the works interrupted by the railway. Land acquired for these purposes should not be registered as " Railway permanent ". When the acquisition is completed, the lands vest absolutely in Government under the Land Acquisition Act and the State Government can either keep them under their own control or place them at the disposal of a local body for maintenance. On receipt of intimation from the Railway Administration that the diversions or other works have been carried out, the Collector should register the lands in the accounts as poramboke with a suitable classification (such as road, channel and the like) according to the purpose for which they were acquired. He should also take steps, if necessary, to place the lands at the disposal of the local body concerned for the maintenance of the works. It is not necessary for the Railway Administration to relinquish the lands formally after the diversions or other works are carried out.

Govt. Memo. 2150-D 32-1, d. 2-7-32. B.P. 42, Press, d. 21-7-32.

(4) The instructions in Section VI (revised) of Appendix V should be followed.

The land revenue to be capitalized and debited in the case of lands acquired will be the land revenue leviable at the time of the acquisition in the case of ryotwari lands and the beriz deduction, the reduction of quit-rent or the reduction of peshkash granted by the Government in the case of unenfranchised inams, enfranchised inams

or lands in proprietary estates respectively. When land at the disposal of Government is granted in exchange for land acquired or when land belonging to a local body which pays no revenue to Government is acquired no debit should be made on account of land revenue. When land assigned on condition that it should be given up whenever required by Government is transferred, debit should be made on account of land revenue.

G.O. Ms. 1000, Rev., d. 6-6-33. B.P. 42, Press, d. 16-6-33.

When a Railway Administration relinquishes land, the amount payable to it therefor should include the refund of the capitalized value of land revenue, if such capitalized value was included in the value of the land at the time of its acquisition. In view, however, of the practical inconvenience likely to be involved, the Central Government have decided to waive the refund of the capitalized value of land revenue in cases where the land relinquished by a Railway Administration is disposed of to private parties.

G.O. Ms. 1335, Rev., d. 25-5-38. B.P. 61, Press d. 10-6-38.

(5) *Relinquishment of land by the old guaranteed Railways.*— An extract from the " Rules laid down in 1861 for the acquisition of land required for railway purposes by the old guaranteed companies " is printed in Appendix VI to Board's Standing Order No. 90. These rules did not reserve to the Railways any interest in the lands relinquished but required that such lands should be disposed of to the best advantage of the Government. The old guaranteed companies were :—

(1) The Madras Railway Company.
(2) The South Indian Railway Company.
(3) The Southern Mahratta Railway Company.

They continued to be guaranteed companies until 1st January 1908, 1st January 1891 and 1st June 1882 respectively. With effect from 1st January 1908, the old Madras Railway (with the exception of the Jalarpet-Mangalore section including the Tirupattur-Krishnagiri, Morappur-Dharmapuri and the Nilgiri Railways) together with the sections of the South Indian Railway from Katpadi to Gudur and Pakala to Dharmavaram was made over to the Southern Mahratta Railway Company for working, the enlarged Company being styled the Madras and Southern Mahratta Railway Company. The excepted section referred to above was incorporated in the undertaking of the South Indian Railway Company. The provisions contained in the rules given in Appendix VI were in force until 1st June 1882 and 1st January 1891 in the case of the Madras and Southern Mahratta Railway and the South Indian Railway respectively except in regard to the sections of those Railways pertaining to the old Madras Railway. In respect of the latter, the rules were in force until 1st January 1908. The Railways were not entitled to be credited with the value of lands relinquished by them before the respective dates specified above. When such lands are disposed of, their value should be credited to the State Government and not to the Railway.

G.O. Ms. 713, Rev., d. 16-3-38. B.P. 49, Press d. 16-5-38.

5. *Management of land which may be required in the distant future.*—(i) When a certain area in the occupation of a Railway administration though not "eligible for relinquishment" is lying idle and is suitable for development on commercial lines it is called "*available land.*" The Railway administration may offer to the State Government the management of such areas of "available land" as they may agree to accept and if necessary permit them to retain a percentage (to be agreed upon between the Railway administration and the State Government) of the gross receipts accruing from the lease, etc., of the land. In such cases the condition laid down in rule 33 of the rules for the "*management of land*" in section V of the Revised Land Acquisition Rules will apply. The commission to be retained by the State Government for the management of such lands is 5 per cent of the gross receipts and should be credited to 'VII Land Revenue—Miscellaneous'.

G.O. Ms. 1437, Rev., d. 7-7-36. B.P. 89, Press, d. 22-7-36.
G.O. Ms. 2065, Rev. d. 17-5-57.

(ii) Whenever a Railway administration offers to the State Government the management of any areas of "available land" it should furnish a list of such lands to the Collector with definite suggestions as to the use to which they may be put, the terms of management offered and other particulars. The Collector should after such enquiry as he thinks fit, submit the case for the orders of the Board of Revenue with his own views. The Board will pass orders on the merits of each case, the orders of Government being obtained only in important cases such as those referred to in clauses (*a*) and (*c*) of paragraph 4 (2) (i) above. The method by which land is managed by the State Government will be decided by that authority subject only to the conditions on which such management is undertaken. Land made over for management should be properly demarcated and accompanied by the necessary plans.

(iii) The net receipts from the management of Railway lands should be adjusted in the accounts as noted below :—

"Railway revenue" of the railways concerned whose capital account is charged with the cost of the land.

G.O. Ms. 2183, Rev., d. 26-10-34. B.P. 160, Press, d. 8-11-34.
G.O. Ms. 1592, Rev., d. 10-4-57.

6. *Removal of sand by Railway Administration from river-beds*—Railway administration may be permitted to take sand for ballast from the beds of rivers on the understanding that care should be taken that no injury is done to the water course, bridges or sluices, or the banks of the rivers and subject to any conditions that may be imposed by the Collector. When large quantities are taken, the Public Works Department must be referred to in the first instance.

G.O. 363, d. 11-5-61. B.P. 398, d. 15-11-97. B.P. 202, d. 22-5-14.
See Rule 5 (5), Sec. I, Chapter VI of the Madras Mining Manual.

Note.—Quarrying may, however, be prohibited absolutely or regulated by the Conservator of Rivers in the case of lands in river-beds to which the Madras Rivers Conservancy Act, VI of 1884, has been extended and no quarrying or removal should be sanctioned by the Collector in such cases without consulting the Conservator of Rivers.

B.P. Mis. 2154, d. 5-7-28. B.P, 81, d. 11-8-28.
G.O. Mis. 1701, Rev., d. 1-8-28.

7. [a] *Survey and demarcation of land.*—The lands acquired will be surveyed and marked in the cadastral village and field maps in the manner laid down in Appendix VIII.[a]

[a] G.O. 1923, Rev., d. 9-12-25. [a] B.P. 72. d. 19-12-25.
G.O. 1959, Rev., d. 14-8-20. B.P. 5, d. 8-2-21.

G.O. Mis. 2065, Rev., d. 17-5-57.

H.C., S.C.'s Office,
Karur.
17.5.62

PART III.

General Principles and Procedure.

TABLE OF CONTENTS.

		PAGES.
Chapter	I—Scope and limitations of the Land Acquisition Act ..	77, 80
Do.	II—Powers and duties of the Collecto under the Act ..	80, 82
Do.	III—Jurisdiction of the Land Acquisition Court and its limitations.	82, 83
Do.	IV—Persons intersted	83, 84
Do.	V—Proceedings preliminary to the publication of a declaration under the Act.	84, 89
Do.	VI—Declaration of intended acquisition	89, 91
Do.	VII—Procedure after the publication of a declaration ..	92, 93
Lo	VIII—The award	94, 96
Do.	IX—Market value	96, 99
Do.	X—Agricultural land	100, 102
Do.	XI—Building land	102. 104
Do.	XII—Agricultural land fit for quarrying	104, 105
Do.	XIII Building sites	105, 106
Do.	XIV—Buildings	106, 108
Do,	XV—Trees and topes	108, 110
Do.	XVI—The principle of reinstatement	110
Do.	XVII—Valuation of land in an estate and the apportionment of its value.	111, 113
Do.	XVIII—Damages to be included in compensation	114, 117
Do.	XIX—Improvements to land effected after publication of the notification under section 4, sub-section (1)	118
Do.	XX—Taking possession	118, 120
Do.	XXI—Reference to Court	121, 127
Do.	XXII—Apportionment of compensation	127, 129
Do.	XXIII—Payment of compensation	129, 130
Do.	XXIV—Compensation otherwise than in cash	130, 132
Do.	XXV—When a claimant may file a regular Civil suit	132, 134
Do.	XXVI—Payment of interest on the compensation awarded ..	134, 135
Do.	XXVII—Temporary occupation of land	135, 136
Do.	XXVIII—Acquisition for companies	136, 137
Do.	XXIX—Withdrawal from acquisition	137, 138
Do.	XXX—Duties of the District Collector	138, 139
Do.	XXXI—Acquisition for Railways	140, 141
Do.	XXXII—Persons who are not competent to alienate	141, 144
Do.	XXXIII—Correspondence regarding land acquisition	144, 145
Do.	XXXIV—Miscellaneous	146

LAND ACQUISITION MANUAL

PART III

GENERAL PRINCIPLES AND PROCEDURE

CHAPTER I—SCOPE AND LIMITATIONS OF THE LAND ACQUISITION ACT.

The acquisition of land is governed by the Land Acquisition Act I of 1894, as amended by the Land Acquisition Amendment Act XXXVIII of 1923 and also (in certain cases) by the special provisions in the enactments mentioned below relevant parts of which are printed in Part IV :—

(1) The Land Acquisition (Mines) Act XVIII of 1885.

(2) The Madras Town-Planning Act VII of 1920 (Chapter VII).

(3) The Railways Act, 1890 (Chapter III).

(4) The Madras City Improvement Trust Act, 1945 (Chapters III and IV, Parts and the Schedule to the Act).

Rules have been framed under section 55 (1) of the Land Acquisition Act prescribing the procedure to be adopted to give full effect to the spirit of the amending Act, and these have the force of law. They have been further supplemented by executive instructions which though not having the force of law, yet bind the officers of the Government in their land acquisition work.

(G.O. Ms. No. 2475, Revenue, dated 4th March 1946).

2. Care should be taken that land is not notified for acquisition when the State Government are the sole owners of it. For this purpose a careful preliminary enquiry is necessary to ascertain that the land which is to be acquired is not really land at the disposal of the State Government. If such land is notified for acquisition and if it is found at a later stage that it is State Government land, no award should be passed; but the proceedings taken under the Act should be cancelled and a cancellation notice in Form 24 in the Appendix XII should be published in the *Fort St. George Gazette.*

(G.O. Nos. 1273–74, dated 20th August 1924.)

3. Public streets and roads vesting in a local or municipal body should not be acquired under the Act. In cases in which the Madras District Boards Act (Act XIV of 1920) applies, such roads should be excluded from its operation under section 60 (3). If the roads lie within the limits of a municipality, they should be excluded from the control of the municipal council under section 61 (2) of the Madras District Municipalities Act V of 1920. A public street may be permanently closed under section 205 of the Madras City Municipal Act (Act IV of 1919) with the special sanction of the council and the State Government.

4. There may be cases in which land assigned subject to a condition that it may be resumed when required has to be acquired for a public purpose. If such land is acquired, the compensation to be paid will be determined by the conditions of the order of assignment. If no compensation is payable on resumption by the State Government, then none need be paid on acquisition by the Government for a public purpose. Under Board's Standing Order No. 15, paragraph 22 (4), the assignment by sale of land likely, in the opinion of the State Government, to be affected by irrigation projects or to be required for grant in exchange for land to be acquired for such projects should be subject to the condition that the State Government may resume the land at their pleasure at any time until the original assignment is declared absolute by them. If land is resumed under this condition, the purchase money or such share of it as is proportionate to the area resumed will be repaid to the purchaser. The State Government will not be liable to pay compensation for any permanent improvements which may have been effected on the land before such resumption. The land so resumed should be taken possession of by effecting a peaceful re-entry on it in accordance with the instructions issued by the State Government (G.Os. No. 242, Revenue, dated 10th February 1927 and No. 1949, Revenue, dated 4th October 1927). If in any special case it is found inadvisable to follow this course, proceedings under the Act may be resorted to, but the compensation to be paid in such a case will be only the amount payable according to the conditions of the grant on resumption.

5. Under Board's Standing Order No. 24, paragraph 6, a grant of State land, whether for religious, public, charitable or other purposes is subject to the condition that if it is in the opinion of the State Government required for a public purpose, the State Government may resume it. The compensation payable shall in no case exceed the amount, if any, paid to the State Government, for the grant together with the initial cost or value at the time of resumption, whichever shall be less, of any buildings erected or other improvements effected on the land by the grantee in accordance with the terms of the grant. The land so resumed should be taken possession of by effecting a peaceful re-entry on it in accordance with the instructions issued by the Government (G.Os. Nos. 242, Revenue, dated 10th February 1927, and 1949, Revenue, dated 4th October 1927). If in any special case it is found inadvisable to follow this course, proceedings under the Act may be resorted to, but the compensation to be paid in such a case will be only the amount payable according to the conditions of the grant on resumption.

6. When the ownership of land partially vests in the Government, the Act may be applied to acquire the partial interest vesting in private parties. One instance of such fractional interest is the case of buildings erected with the permission of the State Government by private parties on land obtained by them on lease from the State Government. In the case reported in Indian Law Report, 34 Bombay, 618, the State Government was the owner of the land and the respondent held it as a tenant by sufferance. It was held that he was entitled to compensation only for

the buildings put up on the land, which alone could be acquired under the Land Acquisition Act. The Judges remarked "to acquire a land is not necessarily the same thing as to purchase the right of fee simple to it, but means the purchase of such interests as clog the right of State Government to use it for any purpose they like".

(G.O. Ms. No. 2431, Revenue, dated 24th August 1959.)

7. Another instance of such fractional interest is the case of a lease for a long term from the State Government. In an unreported case from Guntur in which a lease for 99 years had still 25 years to run at the time of acquisition, the Madras High Court held that claimants were entitled as compensation for their limited interest in the land to one-third of the freehold value of the land, i.e., to one-third of the price which the land would realize if it were held as a preferential grant subject to the payment of neither assessment nor ground-rent and were sold as such in the open market. Where such a lease had still thirty-three years to run, the High Court awarded to the claimants one-half of the freehold value.

8. A third instance of the acquisition of partial interest is the acquisition of rights to irrigate land with the water of a Government tank. A portion of the Perambur tank which had a wet ayacut was required for the purposes of the Madras and Southern Mahratta Railway Company, and its transfer to the company involved the draining of the tank so as to render it useless as a source of irrigation. The bed of the tank belonged to the State Government, but the owners of the wet ayacut had the right to irrigate the ayacut with the water of the tank. In that connection two questions arose, viz. :—

(i) Whether the rights of irrigation could be acquired apart from the land, i.e., the wet ayacut entitled to irrigation; and

(ii) the State Government being the owners of the tank-bed, whether they could acquire the incorporeal rights in the tank outstanding in other people, viz., the right to take water from the tank for irrigation. It was held that the rights of irrigation might be acquired apart from the land entitled to irrigation and that though the State Government owned the tank-bed, they could start proceedings under the Land Acquisition Act to acquire the outstanding interests on it so as to vest the absolute right to it in the State Government.

(G.O. No 977, Revenue, dated 30th June 1924.)

9. Generally the land with all the interests therein will be the subject of acquisition. But even limited interests in land may be acquired under the Act when the ownership of the remaining interests in it vests in the Government. The State Government are entitled to acquire an absolute interest in land by proceeding under the Land Acquisition Act, whether that involves acquisition of and payment for the whole land or only for partial interests therein. But the State Government cannot acquire a partial interest in land leaving other interests outstanding in the owner.

(G.O. Ms. No. 2431, Revenue dated 24th August 1959.)

10. When land on the security of which a loan has been granted by the State Government under the Loans Acts, or a portion thereof is

acquired for a public purpose, the Governor should not be shown as mortgagee either in the draft notification under section 4 (1) of the Act or in the draft declaration under section 6, as the provisions of the Act should be put into operation only for the acquisition of interests subsisting against the Government. The procedure laid down in sub-paragraphs (2) to (4) in paragraph 2 of Chapter XXII in Part III of this Manual should be followed in such cases.

(G.O. Ms. No. 2431, Revenue, dated 24th August 1959.)

11. When land set apart for the common use of the villagers in an estate is required for a public purpose other than the common use for which it was set apart, an application should be made to the Collector of the district to make an order under section 20 of the Madras Estates Land Act. Upon receipt of such application the Collector will make such order as the merits of the case appear to him to require. If the application is complied with, the land will then be at the disposal of the State Government for the public purpose in question and no acquisition will be necessary under the Land Acquisition Act.

12. In many cases of acquisition for local bodies or companies, portions of State Government land intermingled with the private holdings to be acquired under the Act will also be required, e.g., forest land and military land. The Collector of the district should be addressed in order that he may pass or, if necessary, obtain from the State Government a formal order transferring the land to the local body or company.

13. The provisions of the Act should not be set in motion long before any scheme for acquisition matures, solely with a view to check an artificial inflation of prices. The Act does not contemplate delay in proceedings when once they have been set in motion.

CHAPTER II—POWERS AND DUTIES OF THE COLLECTOR UNDER THE ACT.

It is a well-established principle of law that all statutory provisions must be strictly complied with, and the burden of proof of compliance rests upon those who claim statutory powers or base their title upon the exercise of statutory provisions. The attitude of civil courts invariably is that Acts of this character are to be liberally expounded in favour of the public and strictly expounded as against the State Government. It is necessary that Land Acquisition Officers should bear these facts in mind at every stage of their proceedings. Thus, for example if general notices are not published or individual notices served as and when prescribed by the law, or any minimum interval required between two operations is not observedall subsequent proceedings are thereby rendered invalid. A record of the publication or service of all notices must therefore be kept, since the burden of proving the same will be upon State

Government in the event of the legality of the proceedings being subsequently contested. Similarly, if an award does not record under the hand of the acquiring officer a definite finding in respect of each and every particular laid down in section 11 of the Act, the award is incomplete and the finality provided for in section 12 will not attach to it. Or again, if the State Government takes possession of land beyond the limits prescribed by the declaration under section 6, or in excess of the area for which compensation is given, it commits a trespass on private land and cannot rectify the mistake committed by valuing the excess and paying compensation for it as though it had been acquired under the provisions of the Act. Each declaration as it appears in the gazette should therefore be carefully checked as soon as it has been published and any errors or omissions should be remedied by the publication of an erratum before proceedings are carried further. These examples are by no means exhaustive. They are merely illustrative of the care which must be exercised strictly to comply with all statutory requirement from the commencement to the completion of acquisition proceedings.

2. The Collector acts as the Agent of the State Government for the purpose of acquisition. He is clothed with certain powers to require the attendance of persons to make statements relevant to the matter which he has to investigate; but he is in no sense of the term a Judicial Officer and the proceedings before him are not judicial proceedings. In I.L.R. 32 Cal., 605 it was held that the proceedings resulting in an award are administrative and not judicial, that the award in which the enquiry results is merely a decision binding upon the Collector as to what sum shall be tendered to the owner of the land and that if a judicial ascertainment of the value is desired by the owner, he can obtain it by requiring the matter to be referred by the Collector to the court. On this principle, it has been held that in the absence of fraud or corruption, the fact that the Collector obtained information without the knowledge of the claimants and did not disclose it at the enquiry will not vitiate his proceedings. The Collector is not a court within the meaning of section 115 of the Civil Procedure Code, much less is he a judge subject to the appellate jurisdiction of the High Court within the meaning of section 15 of the High Courts Act, 1861. As he is not a Judicial Officer and as his award is not a judicial proceeding, the Collector cannot administer an oath or affirmation or require verification of any statement by affidavit.

3. The Collector exercising functions under Part II of the Land Acquisition Act is acting only in an advisory capacity and is not exercising judicial functions at all. But when he acts under Part III he is acting in a different capacity because he has to decide there certain things—he has to send the case to the District Court, if certain provisions in section 18 of the Act have been complied with, one of which relates to the question of time, i.e., he has to decide whether the application is barred or not and in doing so, he acts judicially. Although the Land Acquisition Collector acting under Part III of the Act is a Judicial Officer, he is however not a court subordinate to the High Court and subject to the revisional powers of the High Court.

(I.L.R. 47, Mad. 357.)

4. Under section 14 the Collector can compel a party or witness to appear before him. Persons who refuse to appear are liable to prosecution for disobedience of the summons. There are, however, sufficient provisions in the Act itself effectively to punish parties who do not appear or produce proper evidence before the Collector. If no claim is made before him, but the party who makes default seeks a reference to the court under section 18 of the Act the court will not award compensation in excess of that awarded by the Collector.

5. In assessing compensation under section II of the Act, the Collector performs a statutory duty. The award should therefore be based on his own judgment with reference to the data available. He must collect materials on which to base his award, scrutinize the data supplied by the parties and test them if possible by independent evidence. He must award such a sum as, in his opinion, is a fair and proper compensation that should be allowed for the land.

In making the award, the Collector should be independent of any local body or company for whom the acquisition is made. He is not a purchasing agent lent to the acquiring body, nor is he a mediator between the owner and the acquiring body simply to register their private compromise in the form of an award. He has a responsibility of his own and is bound to observe the formalities under the Act and to fix the compensation in accordance with the provisions of the Act.

(G.O. Ms. No. 65, Revenue, dated 9th January 1950.)

6. It is one of the Collector's most important duties under the Act to fix the market value of the land to be acquired. He must make himself familiar with the recognized principles of valuation and must also possess the necessary local knowledge and business capacity for applying these principles to the facts of a particular case.

7. The Collector acquiring land for a railway is as much bound to follow the rules in Board's Standing Order No. 90, as he is if he was acquiring land for any other purpose. Rule 4 of section 1 of the revised Land Acquisition Rules for railways printed in G.O. No. 1959, Revenue, dated 14th August 1920 (Appendix V), expressly provides that the procedure to be followed should be in conformity with the instructions prescribed by each State Government. The Board's Standing Orders are the instructions so prescribed and should be followed by all Collectors acquiring land for a railway.

CHAPTER III—JURISDICTION OF THE LAND ACQUISITION COURT AND ITS LIMITATIONS.

According to section 3 (*d*) of the Land Acquisition Act ' Court ' means a ' District Court ' unless the State Government has appointed a Special Judicial Officer within any specified local limits to perform the functions

of the court under the Act. In this State, the State Government has appointed all sub-judges presiding over permanent sub-courts to perform the functions of a court under the Land Acquisition Act within the limits of their local jurisdiction.

(G.O. No. 770, Law, dated 2nd March 1924.)

2. The Court of the Land Acquisition Judge is a court of strictly limited jurisdiction, the powers and duties of which are defined by the statute creating it. Such a court cannot legitimately be invited to exercise inherent powers so as to assume jurisdiction over matters not intended by the legislature to be comprehended within the scope of the enquiry before it. Section 18 of the Land Acquisition Act and the other sections which follow it make it reasonably plain that the question of the legality of the acquisition or the impropriety of the award of the Collector is not intended by the legislature to form a subject of enquiry by the Land Acquisition Judge (I.L.R., 38 Cal., 230). This has also been affirmed by a decision of the Madras High Court.

3. The court has no power to review the award of the Collector, to cancel it or to remit it to him to recast, modify or revise it (I.L.R., 38, Cal., 230), (31 M.L.J., 827). The court has also no jurisdiction to review its own award.

4. The Court is restricted to an examination of the question which has been referred to it by the Collector for decision under section 18 of the Act, and the scope of the enquiry cannot be enlarged at the instance of parties who have not obtained, or who cannot obtain, any order of reference.

CHAPTER IV—PERSONS INTERESTED.

This expression includes all persons claiming an interest in the compensation to be paid on account of the acquisition of land under the Act. The term is not confined to persons whose title to share in the amount twarded has been admitted. A lessee with a fixed term to run is a person interested and is entitled to compensation for any damage sustained by him and for the loss of profits during the unexpired term of the lease. A person may be interested in the compensation without having any interest in the land in the legal sense of the term, e.g., the various rights of the female members of a joint and undivided Hindu family in the joint family property have no market value though such members would be persons interested in the compensation (37, I.L.R., Bom., 76). A party to a valid agreement to purchase land is also a person interested and when the land is acquired compensation must be paid for his interest in it. A tenant-at-will is not ordinarily be entitled to compensation except for any standing crops raised by him (37, Indian Cases, 822). But in localities where interests of tenants-at-will are

frequently sold and purchased for substantial prices, the mere precariousness of the tenant's title or his liability to ejectment at the option of the landlord will not negative his claim for the market value of his interest, because the question of market value is always determined with reference to actual commercial value rather than to abstract legal rights. A sub-tenant even though his interest is not transferable except with the sanction of the superior landlord has an interest in land which is capable of valuation. A person having a permanent and transferable interest in a tenure is entitled to compensation. A lessee of a tank was taking yearly leases of the tank for fishing and was making a profit by his trade. The Calcutta High Court held that he was in the same position as a yearly tenant of agricultural land, and was entitled to compensation (I.L.R., 28 Cal., 152). In I.L.R., 16 Mad., 369, however, their Lordships of the Privy Council remarked that quarry men who earned a living by quarrying in the Mahabalipuram hill were not persons interested in the land any more than a ploughman or a digger was interested in the land on which he worked for wages. The holder of an easement over the acquired land is a person interested and when the easement is destroyed by the acquisition, the owner of the dominant tenement must be compensated for his loss.

2. The land of a Hindu widow was acquired and she preferred her claim before the Collector after notice under section 9 of the Act. After the award she surrendered her estate to her reversioner who, dissatisfied with the award, applied for a reference to the court under section 18 of the Act. It was held that he was a person interested; that, though under section 25 (1) of the Act the court could not award more to the widow than the amount which she had claimed before the Collector her reversioner was not her legal representative and was not estopped from making a claim for a larger amount than the amount which she had claimed before the Collector.

(45, I.L.R., Mad., 421.)

CHAPTER V—PROCEEDINGS PRELIMINARY TO THE PUBLICATION OF A DECLARATION UNDER THE ACT.

Prior to the enactment of the Land Acquisition (Amendment) Act 38 of 1923, the purpose of the notification under section 4 (1) of the Act was to confer on the officers authorized by the Government authority to do any of the acts mentioned in section 4 (2) of the Act. Such a notification was not issued in all cases but only if land was to be acquired for railways or other large projects when the owners of the land were likely to object to the officers of the department concerned entering on the land to do the acts mentioned in section 4 (2) of the Act. The Amending Act makes the notification under section 4 (1) compulsory in all cases and gives a right to the persons interested in the land to prefer objections to the acquisition within thirty days from the date of the publication of the notification under section 4 (1) in the *Fort St. George*

Gazette (G.O. No. 1718, dated 5th November 1925). According to the Act as amended, the market value on the date of the notification under section 4 (1) shall be taken into consideration for the purpose of sections 11 and 23 of the Act instead of the market value on the date of the declaration under section 6, which was the value to be taken into consideration according to the Act before it was amended. The notification under section 4 (1) remains, as before, an authority to the officers authorized by the Government to do any of the acts mentioned in section 4 (2). The statutory rules framed under the Act (Appendix I) require that immediately after the publication of the notification under section 4 (1) the Collector shall issue a notice calling on all persons interested in the land to prefer in writing their objections, if any, to the acquisition. The notice should be published at convenient places in the locality and copies thereof should be affixed to the notice boards in the offices of the Collector and Tahsildar and in the nearest police station. The notice should also be served individually on every person known or believed to be interested in the land to be acquired in the manner prescribed by sub-sections 3 and 4 of section 9. It is not necessary that the extent covered by the notification under section 4 (1) should exactly agree with the extent given in the declaration under section 6. But when the particulars given in the declaration under section 6 do not agree with those given in the notification under section 4 (1), the difference between the two should be reconciled at the time of submitting the declaration under section 6. In cases in which the extent of the land to be acquired within a survey number already notified under section 4 is increased when publishing the declaration, no fresh notification is necessary in respect of the additional area provided that the particulars in respect of the boundaries and the names of owners as notified continue to hold good in respect of the increased extent.

2. The notification under section 4 (1) should be published as early as possible and it should give such particulars as are necessary for identifying the land and the locality in which it is situated. If particulars concerning the survey number of the field, name of the owner, boundaries, etc., can also be stated, they should be given in the notification and the individual notices should be served immediately after the publication of the notification. But if these particulars cannot be given at once, the notification should be in general terms indicating as clearly as possible the position and extent of the land intended to be acquired and, as soon as the details of the land to be taken up are known, the individual notices should be served allowing fifteen days from the date of service for the presentation of objections.

(G.O. No. 196, Revenue, dated 6th February 1926.)

When land is required for providing house-sites for members of the scheduled castes or other labouring classes or of a co-operative society, the names of the members to whom it is intended to assign the land when acquired should be given in the notice issued under sections 4 (1) and 5-A together with the extents proposed to be given to each.

Information as to whether this instruction has been complied with should be furnished when submitting the draft declaration under section 6.

In submitting proposals for acquisition Collectors should report whether the possibility of any further land being required in the near future for expansion or development of the project or scheme in question has been considered and whether the proposals made to provide for such contingencies. This report is not necessary in cases of acquisition for the Union Government or Railways.

(G.O. Ms. No. 472, Revenue, dated 22nd February 1938.)

3. The notification under section 4 (1) should be submitted *direct* to the State Government in the concerned department in the following cases :—

(i) In the case of acquisition for the Revenue department, where the Board of Revenue has given its administrative consent and has provided necessary funds; and

(ii) In the case of acquisition for other departments where the authority requiring the lands has specifically stated that sanction of the competent authority exists for the work for which the land is required.

In cases where special difficulties and questions of principles are involved the notification should be submitted through the Board of Revenue (G.O. Ms. 3029, Revenue, dated 23rd November 1950). If the acquisition is for a local body, the Collector should send the notification direct to State Government in the Health, Education and Local Administration Department. A special officer appointed for the acquisition of lands for public works may, to avoid delay, send the necessary draft notifications direct to the State Government in all ordinary cases, but he should send them through the Board of Revenue in cases in which any special difficulties or questions of principles are involved (G.O. Ms. No. 1148, Revenue, dated 14th July 1926). The notification should specify the officer who is to be appointed to perform the duties of the Collector under section 5-A of the Act (G.O. No. 666, Revenue, dated 29th April 1924). No officer who is below the rank of a Deputy Collector should be appointed to perform the functions of a Collector except in the following cases :—

A District Welfare Officer below the rank of a Deputy Collector may be appointed to perform the functions of a Collector for the acquisition of land required for public purposes affecting the scheduled castes. Tahsildars may be appointed Land Acquisition Officers in cases in which the extent of land to be acquired is one acre or less and the compensation likely to be paid is Rs. 1,000 or less. (G.O. Press, No. 1714, Revenue, dated 8th October 1926, G.O. Mis. No. 2191, Revenue, dated 23rd December 1926, and G.O. No. 2064, Revenue, dated 2nd July 1955). The publication of the names of the owners of the land in the notification is necessary whenever it is possible, though it is not expressly required by the Act, because the executive instructions impose on the Collector the duty of serving individual notices as far as possible. It is to be noted

that the thirty days' time allowed to the parties commences from the date of the publication of the notification in the Gazette and not from the date of the Collector's notice.

(G.O. No. 1097, Revenue, dated 22nd July 1924.)

4. When submitting a draft notification under section 4 (1), information should be furnished on the following points according to the purpose of the acquisition in each case :—

(1) When a site is required on behalf of a local board or a municipality, it should be stated whether the site has been approved by a competent authority as being suitable for the purpose for which it is intended, and whether a resolution of the local body has been passed undertaking, (*a*) to use the land for the purpose for which it is to be acquired and for no other purpose without the sanction of the Government, (*b*) to carry out that purpose within a specified period, and (*c*) to restore the land to the Government, if they so direct, on payment of the compensation awarded less 15 per cent awarded for compulsory acquisition of the value of the land at the time of restoration whichever may be less in the event of the local body not carrying out the purpose for which the land is acquired within the specified period or using the land without the sanction of the Government at any time, for any purpose other than that for which it is acquired.

(G.O. Ms. No. 338, dated 19th February 1934.)

(2) When land is acquired for a burning or a burial ground, it should be stated whether it is acceptable to the community and whether trial pits have been dug to make certain that the subsoil of the land is suitable to a sufficient depth.

(G.O. No. 787, L. & M., dated 24th April 1906.)

(3) When a site is required for a public building, it should be stated whether the proper site Committee has approved the site.

[B.S.O. No. 81(2).]

(4) In places other than Madras City, when land is required by the Harijan Welfare Department for provision of house-sites to Harijans, etc., the Collectors while submitting proposals should report on the possibility of realising a portion of cost from the local body or municipality concerned. The scheme for the provision of house-sites in rural areas to Harijans sanctioned in G.O. No. 2644, I.L.C., dated 27th September 1954, was later extended to all areas throughout the State with the exception of the City of Madras subject to the following conditions :—

(i) The Collector should prepare the scheme in consultation with the Municipalities concerned and the Inspector of Municipal Councils and Local Boards should certify that the financial position of the Municipality concerned would not enable it to pay the cost of acquisition; and

(ii) Where acquisition is proposed, the municipality should undertake to provide the minimum amenities available in the surrounding areas.

Where acquisition is proposed, non-Harijans up to 10 per cent of the total number should also be admitted.

Note.—The Government have exempted from stamp duty the agreements executed by Harijans either collectively or individually in cases of acquisition of house-sites where initial deposits are collected from them and in cases of acquisition of land for wholesale shifting of Harijan Colony where the cost of acquisition is recovered from the Harijans as an alternative to the condition of relinquishment of their old sites.

G.O. Ms. No. 2644, Industries, Labour and Co-operation, dated 27th September 1954.
G.O. Ms. No. 3509, Industries, Labour and Co-operation, dated 31st July 1956.
G.O. Ms. No. 3297, Industries, Labour and Co-operation, dated 9th October 1957,
G. O. Ms. No. 1580, Industries, Labour and Co-operation, dated 2nd May 1955.
G.O. Ms. No. 1825, Revenue, dated 9th June 1955.

5. Demarcation and sub-division work should be undertaken immediately after the publication of the notification under section 4 (1) of the Act. Any subdivision of survey fields, which may be necessary should be made and the sub-division records (together with resurvey sketches where necessary) should be forwarded to the District Surveyor or Circle Officer through the Land Acquisition Officer. The latter should not keep the records in his file, but should forward them to the District Surveyor or Circle Officer after making a note of any information which he may require. These records should be scruitinized by the District Surveyor or Circle Officer before the Land Acquisition Officer issues notices under section 9 of the Act. The subdivision records should be before the Land Acquisition Officer when he conducts the award enquiry. In the case of an acquisition for a large project, notification under sections 5 and 17 (*b*) (ii) of the Madras Survey and Boundaries Act, 1923, should be published in the *Fort St. George Gazette* and in the District Gazette before the commencement of the survey operations, the Special Officer for acquisition of land, if any, has been appointed and his field staff being notified as survey officers under the Act.

No fees will be charged on account of sub-divisions effected in connection with the acquisition of land, whether the acquisition is for a Government Department or a local body or a railway.

(G.O. No. 755, Revenue, dated 21st May 1925.)

6. (i) Waste or artble lands, including those on which scattered trees or temporary structures such as huts, pandals or sheds exist, can be acquired invoking urgency provisions under sub-section (1) of Section 17 of the Act. In all such cases the Land Acquisition Officer should verify either himself or by a responsible subordinate that the lands are actually waste or arable notwithstanding the existance thereon of scattered trees or temporary structures such as huts, pandals or sheds and that there are no buildings or grave yards on them. The covering report forwarding the notification should contain specific information to this effect; and

(ii) any land irrespective of the fact whether it is waste or arable or whether any building exists thereon can be acquired invoking urgency provisions under sub-section (2) of Secction 17 of the Land Acquisition Act provided the land is required for any one of the purposes

specified in that Section. Buildings also can be taken possession of under the proviso to sub-section (2) of Section 17 of the Act after giving to the occupier thereof atleast forty-eight hours notice to remove his movable property from such buildings.

It should be clearly explained in the covering report forwarding the notification how the case falls under sub-section (1) or (2) of Section 17 of the Act. In either case the Government under sub-section (4) of the Section 17 of the Act direct that the provision of the Section 5-A of the Act shall not apply.

(G.O. Ms. No. 2431, Revenue, dated 24th August 1959.)

7. In cases in which exemption from the operation of section 5-A of the Act is recommended and the Collector submits both the notification under section 4 (1) and the declaration under section 6, they may be sent together to the press, but they should not both be published in one issue of the Gazette. The latter should be published a week after the former. The schedule of lands should be published with the notification under section 4 (1) and the declaration under section 6.

(G.O. No. 278, Revenue, dated 19th February 1925.)

CHAPTER VI—DECLARATION OF INTENDED ACQUISITION.

1. Land cannot be acquired under the Land Acquisition Act unless (1) the State Government makes a declaration that it is needed for a public purpose or a company, and (2) the compensation to be awarded for the land is to be paid by the company or wholly or partly out of public revenue or some fund controlled or managed by a local authority.

2. The expression 'public purpose' is defined in section 3 (f) of the Act as including the provision of village-sites in districts in which the State Government have declared by notification in the official gazette that it is customary for the State Government to make such a provision. In this State the Government have declared that it is customary for the State to provide village-sites in all districts except Madras and the Nilgiris. The State Government may therefore acquire land for the provision of village-sites in these districts. Under seection 112 of the Madras District Boards' Act, 1920, any district board may acquire land under the Land Acquisition Act to remove congestion of the population and to provide house-sites for the inhabitants of the local area forming its jurisdiction.

The Act may be applied to acquire land for a purpose which may be useful to a considerable portion of the public, even though the rest of the public may not be benefited by the acquisition. For instance, in

one case the State Government allowed the acquisition of the land required for a pathway to a well which was thrown open only to the caste people of a village.

(G.O. No. 100, Revenue, dated 22nd January 1924.)

3. The State Government may, in their discretion, decline to make a declaration under the Act. In a certain case it was sought to acquire land belonging to a temple for the construction of a mosque. The State Government declined to declare that this was a 'public purpose' because it was likely that such action would be misunderstood and misrepresented.

(G.O. No. 231, dated 10th February 1925.)

4. The provision of irrigation facilities for fields is a public purpose, as such provision tends to lessen occasions for the grant of remission of the wet assessment and consequent loss of public revenue. Ordinarily the distribution **of water to fields** is a matter which should be settled by the villagers themselves: but when the State Government are satisfied that water cannot be supplied otherwise than by acquiring the land required for a channel, they may acquire the land with a view to help individual ryots to secure irrigation facilities for their fields. Instances of such acquisition are—

(i) when there is an extension of irrigation to new blocks of land;

(ii) when the source is disturbed by the Public Works Department and lands are transferred from one ayacut or source to another; and

(iii) when the State Government wish to prevent wastage of water by the provision of a channel for a particular field.

(B.P. Mis. No. 84, dated 15th January 1925.)

5. When land is acquired for an institution which though under private management serves a public purpose or when land is acquired for a public purpose which benefits only a section of the community, it is usual for the greater part of the cost of the acquisition to be provided from private funds The State Government in such cases contribute a small sum out of the public revenues in order to satisfy the requirements of the law that the compensation should be paid wholly or partly out of bublic revenues. Doubts have been raised as to whether this nominal contribution from public revenues satisfied the requirements of section 6 but the Madras High Court have held that it does satisfy these requirements, however small the amount contributed may be (50 Mad. 308). The Civil Courts have held that when Government have decided to pay a nominal contribution from the public revenues, the actual payment must be promptly made to satisfy the requirements of the law.

(G.O. Ms. No. 1582, dated 4th September 1933.)

6. What constitutes a public purpose is not defined anywhere. But it has been decided that the State Government are the sole judges of what constitutes a public purpose. When once the State Government

have made a declaration under section 6, the civil courts cannot go beyond it and question the validity of the acquisition proceedings. Even if an acquisition is initiated by the State Government on behalf of a single individual who pays almost the full cost of the acquisition, the proceedings taken are not illegal, provided that the State Government are satisfied that the acquisition is for a public purpose and they make a small contribution towards the cost of this acquisition.

7. In the case of the acquisition of house-sites for the scheduled castes through the agency of the Harijan Welfare Department, the State Government usually pay the cost of acquisition in the first instance and recover it subsequently in instalments from the persons for whose benefit the land is acquired. The Madras High Court have held that this practice is legal.

(49, Mad., 237.)

8. The draft declaration under section 6 of the Act may be submitted direct to the State Government if no objection has been raised to the acquisition. If any objection has been raised the draft declaration should be submitted to the State Government through the Board of Revenue with a report in duplicate under section 5-A accompanied by—

(B.P. No. 59, Press, dated 21st September 1927.)

(*a*) the objection petitions received in original,

(*b*) the record of the enquiry under section 5-A,

(*c*) the notices served on the persons interested,

(*d*) a statement reconciling any differences which may exist between the particulars as given in the published notification under section 4 (1) of the Act and the draft declaration under section 6 of the Act together with a certificate that all the differences have been reconciled;

(B.P. Rout. No. 59, dated 5th January 1927 and Rout. No. 4580, dated 11th August 1927.

(*e*) In cases in which the acquisition is undertaken on behalf of a local board or municipality a copy of the resolution approving the proposal and full information concerning the manner in which it is proposed to find the necessary funds.

9. When land which is proposed to be acquired under the Act is a portion of an existing survey field or subdivision, the portion to be acquired should be separately subdivided and mapped. In the draft declaration, the plot to be acquired and its boundaries should be described by the notations adopted in the temporary sub-division sketches and statements prepared for the purpose of the acquisition.

(B.P. No. 362, dated 1st February 1928.)

CHAPTER VIII—THE AWARD.

The award is an offer made by the Collector regarding the amount tendered by him to the owner of the land and is binding on the Government for whom the Collector acts as the agent. If the owner of the land accepts the offer, the award becomes final at once. If without specifically accepting it, he omits to claim a reference to the Court within the time allowed by section 18, then the award becomes final on the expiry of that time.

2. The award should be in the prescribed form (see Appendix XII). The Collector need not fill up this form in his own hand but he should sign it. He will be held personally responsible for the accuracy of the entries in the form. (G.O. Ms. No. 1838, Revenue, dated 7th June 1943.) He should also at the same time record in a separate order his reasons for arriving at the findings noted in the award. If this is done, there will be no difficulty in submitting to the Court the statement under section 19.

3. The Collector should not pass an award unless he has funds at his disposal for tendering compensation at once to the awardees.

4. Separate awards for different interests in the same land should not be passed; butthere is no objection to the passing of separate awards for separate items of land.

5. Under section 12 of the Act, an award once passed is final and conclusive as between the Collector and the persons interested, of the true area and value of the land and the apportionment of the compensation among the persons interested. After the award has been passed, only clerical mistakes in it may be corrected. If through oversight the Collector has omitted one of the essentials in his award (viz., area, compensation or apportionment), he may afterwards rectify the omission by embodying it in the award. If the omission is not due to an oversight and if possession has not been taken under the award, the remedy is to withdraw from the acquisition and to start a fresh enquiry. But if posssssion has been taken under the award, there is no remedy under the Act. The party who may be aggrieved by the proceedings must be left to seek his remedy in a Civil Court.

6. The extent noted in the award must be the true area of the land. Compensation should be paid for lands which have been eroded if the eroded portions continue under holding, but should not be paid for any excess areas appearing in the revenue records but not existing in reality, for example, excess areas due to different methods of measurement and computation of areas.

(G.O. Ms. No. 428, Revenue, dated 25th February 1936.)

If a portion of a survey field is subdivided and acquired the areas of the resulting subdivisions have to be adjusted in accordance with the rules on the subject. The true area of the land acquired for purposes of section 11 of the Act is the adjusted area and not the area actually obtained by the use of the area square paper, by arithmetical calculation or by other means. An exception should however be made in cases in which the areas are recorded in square feet or in square links as the case may be either because of the smallness of the area acquired or of the valuable nature of the land acquired. In such cases the actual area obtained should be adopted as the true area for awarding compensation.

(G.O. Ms. No. 1811, Revenue, dated 30th July 1940.)

(B.P. Mis. No. 2609, dated 15th September 1927 and B.P. Mis. No. 499, dated 10th February 1928.)

7. An award made and filed must not be revised or amended either by the Collector or the District Collector even though the persons interested may consent to the revision or amendment. Whenever it is found that any equitable claim has been overlooked in an award or that any mistake has been committed, the Collector should report the matter to the Board of Revenue and should submit the explanation of the officers concerned for the omission or other irregularity. When an award has been passed, the Board of Revenue cannot, by its executive orders, cancel or modify it. In extreme cases (e.g., when the Collector who passed the original award was aware that there were other interests in the land for which compensation ought to have been fixed separately but failed to compensate for such interests) the Board may recommend to Government the payment of compensation for the additional interest as an act of grace. The amount should not however purport to be awarded under the Act.

(B.P. No. 245, dated 24th February 1921 and B.P. No. 963, dated 11th March 1910, printed in G.O. No. 1869, Revenue, dated 4th June 1910.)

8. In one case an award was passed by mistake in the name of a person who was not the rightful owner of the field acquired. The compensation was rightly paid however to the rightful owner, after recording a statement from the person in whose name the award was passed, that he abandoned all claim to the compensation awarded to him.

(B.P. No. 1190, dated 22nd May 1924.)

9. In another case there was a mistake in the amount entered in the award due to an arithmetical error. The Government ordered that the error should be corrected under the authority of section 152, Civil Procedure Code, read with section 53, Land Acquisition Act.

(G.O. No. 1405, Revenue, dated 27th August 1926.)

10. In a third case, after acquisition proceedings had been completed and the land had been taken possession of, it was found that there were some mistakes in the numbering of the subdivisions of the fields entered

in the declaration under section 6 of the Act. As a result of the mistakes, the fields which were actually acquired had not been included in the declaration. The compensation however had been disbursed to the parties whose fields had been acquired. As possession had been taken, the only way out of the difficulty was to take statements from the parties to the effect that they had ceased to have any title to the fields acquired. These statements along with the correct numbers and boundaries of the fields were ordered to be published in the *Fort St. George Gazette*, so as to serve as a public notice that the lands acquired had become the property of the Government and could not be made the subject of any transactions with those who had owned the lands before the acquisition.

(G.O. No. 1087, Revenue, dated 21st July 1924.)

CHAPTER IX—MARKET VALUE.

"Market value" may be defined as the price which the owner of a property willing and not obliged to sell it might reasonably accept for it from one of a number of willing purchasers who are not obliged to buy it and with whom he has been bargaining openly for its sale and purchase. It will be seen that this definition excludes unconscionable bargains which take advantage of the necessity of the owner to sell his property or of the purchaser to buy land at whatever cost. The Bombay High Court has defined market value to mean the price which would be obtainable in the market for a concrete parcel of land with its particular advantages and its particular draw backs, both advantages and drawbacks being estimated rather with reference to commercial value than with reference to any abstract legal rights.

(33 Bombay, 483.)

The market value of different pieces of land similarly circumstanced in all other respects may differ from one another, though not necessarily in all cases, if the rates of the charges (e.g., assessment, ground-rent, quit-rent, etc.), to which they are subject are different.

2. The market value of a building is not the same as the cost of constructing it. Buildings may deteriorate in value; and a new building erected upon a piece of land may owing to a demand for it in the locality be valued at more than the cost of the land and the cost of constructing the building upon it. The price paid for a property may be unusually high as compared with the prices paid for similar property in the vicinity and the purchaser may have paid the high price owing to its situation being adjacent to his other property with which it will form a compact block. A temporary boom may have led the purchaser to pay a high price for the property.

3. The value of a property to-day is not represented by adding together the money paid for its purchase and the interest on that money calculated at the prevailing rate of interest for the period of time which has elapsed since the purchase. The market value is the price which the property would fetch in the open market to-day with reference to its present condition.

4. "Market Value" has to be determined by reference to the price which a willing vendor might reasonably expect to obtain from a willing purchaser. The disinclination of the vendor to part with his land and the urgent necessity of the purchaser to buy must alike be disregarded. But this does not mean that the fact that some particular purchaser might desire the land more than others is to be disregarded. The wish of a particular purchaser, though not his compulsion, may always be taken into consideration for what it is worth. The land may have for the vendor a sentimental value far in excess of its 'market value'. But the compensation must not be increased by reason of any such consideration. The vendor is to be treated as a vendor willing to sell at 'the market price.'

The value of land can be measured by a consideration of the prices that have been obtained in the past for land of similar quality and in similar positions and this is what is meant in general by the expression "market value" in section 23 of the Land Acquisition Act. But sometimes it happens that the land to be valued possesses some unusual and it may be unique features as regards its position or its potentialities. In such a case the Land Acquisition Officer in determining its value will have no market value to guide him, and he will have to ascertain as best he may from the materials before him, what a willing vendor might reasonably expect to obtain from a willing purchaser for a land in that particular position and with those particular potentialities. For, the land is not to be valued merely by reference to the use to which it is being put at the time of the notification under section 4 (1) but also by reference to the uses to which it is reasonably capable of being put in the future. No one can suppose that in the case of land which is certain or even likely to be used in the immediate or reasonably near future for building purposes but which at the valuation date is waste land or is being used for agricultural purposes, the owner, however willing a vendor, will be content to sell the land for its value as waste or agricultural land as the case may be. It is plain that in ascertaining its value the possibility of its being used for building purposes would have to be taken into account. It is equally plain, however, that the land must not be valued as though it had already been built upon, a proposition that is embodied in section 24 clause "fifthly" of the Land Acquisition Act and is sometimes expressed by saying that it is the possibilities of the land and not its realised possibilities that must be taken into consideration. Section 24 clause "fifthly" of the Land Acquisition Act does not mean that the

possibility that a particular purchaser of land will give a higher price for it by reason of its possessing a special adaptability must be disregarded merely because the land will become more valuable in his hands when he exploits that adaptability than it would be, if left in the hands of the vendor who was unable to exploit it.

(P.C.A. 36/38, G.O. No 1011, Revenue, dated 24th April 1939.)

5. The question arises how the increase accruing to the value of the land by reason of its potentialities or possibilities is to be measured. In the case instanced above of land possessing the possibility of being used for building purposes, the Land Acquisition Officer would probably have before him evidence of the prices paid, in the neighbourhood, for land immediately required for such purposes. He would then have to deduct from the value so ascertained such a sum as he would think proper by reason of the degree of possibility that the land might never be so required or might not be so required for a considerable time. In the case, however, of land possessing potentialities of such an unusual nature that the Land Acquisition Officer has not similar cases to guide him and there will, in all probability, be only a very limited number of persons capable of turning the potentialities of the land to account, the value of the land must be ascertained in the following manner :—

If the owner of the land is the only person who can turn the potentialities of the land to account, the value to him must be ascertained by reference to what profit he might be able to derive from the land in the future. For instance, to the owner of vacant land that adjoins his own factory the land possesses the potentiality of being profitably used for an extension of the factory. The owner is the only person who can turn that potentiality to account. In valuing the land, however, as between him and a willing purchaser, the value to him of the potentiality would necessarily have to be included.

The same consideration will apply to cases where the owner is not the only person but merely one of the persons able to turn the potentiality to account. The value to him of the potentiality will not be less than the profit that would accrue to him by making use of it, had he retained it in his own possession.

When the owner is himself unable to turn the potentialities of the land into account whether by the promotion of a Company or otherwise, there may be several other persons, who would be able to do so or there may be only one. If there is more than one person who is able to do so, the owner is entitled to get the highest price that will be willingly paid by any one of the possible purchasers, but not any fantastic price which he may be forced to pay by competition among the buyers. This value the Land Acquisition Officer must ascertain on such materials as are available to him and without indulging in feats of imagination. Where there is only one possible purchaser the

value should be the sum which the Land Acquisition Officer estimates a willing purchaser will pay and not what a purchaser will pay under compulsion. If the potentiality is of value to the vendor if there happen to be two or more possible purchasers of it, there is no reason why he should be willing to part with it for nothing merely because there is only one purchaser. To compel him to do so is to treat him as a vendor parting with his land under compulsion and not as a willing vendor. The fact is that the only possible purchaser of a potentiality is usually quite willing to pay for it. The position is not altered where the only possible purchaser is the acquiring authority. Even there the Land Acquisition Officer in awarding compensation must ascertain to the best of his ability the price that would be paid by a willing purchaser to a willing vendor of the land with its potentiality in the same way that he would ascertain it in a case where there are several possible purchasers.

(P.C.A. 36/38, G.O. No. 1011, Revenue, dated 24th April 1939.)

6. The prices noted in sale-deeds have to be carefully scrutinized. The prices may be overstated for many reasons. The purchaser may gain credit and respect if the price is exaggerated. The over-statement of price may be useful when he wishes to mortgage or sell his land. The price noted in the sale-deed may be the total amount due from the vendor to the vendee. If the creditor cannot recover his debt in any other way, he may show the whole amount of the debt as the price of the land which he has to buy. Fictitious prices are sometimes recorded in sale deeds. When a project for acquiring land for Government is rumoured to be in existence, the owners of the lands which it is proposed to acquire sometimes enter into the sale transactions with each other to inflate fictitiously the apparent price of land and to force Government to pay them unduly large compensation. By the recent amendments to the Act, the market value of the land for the purposes of the Act has been declared to be the market value which it bears on the date of the publication of the Notification under section 4, sub-section (1), and not its market value at the date of the publication of the declaration under Section 6. This change in the law has made it incumbent upon Land Acquisition Officers to arrange to publish the notification under section 4, sub-section (1), as quickly as possible. But in spite of all precautions thus taken to publish this notification with the greatest promptitude, there is usually a certain interval between the time when the intention to acquire a block of land first becomes known and the date of publication of the actual notification. To no sale recorded during this interval should much weight be attached. This is so, not because it is legally inadmissible, but because it is a reasonable deduction from the ordinary interpretation of evidence. As soon as the owners of land suspect that their land will be acquired it is in their interest to promote recorded sales at extraordinarily high values. Any court will naturally suspect the *bona fides* of the sales effected under such circumstances.

CHAPTER X—AGRICULTURAL LAND.

The market value of a piece of land may be determined on one or more of the following bases :—

(i) The price paid for the same land or a portion of it in recent years, after making all necessary allowances for lapse of time, advantage of situation, and any other possible differences between the land sold and that to be acquired.

(ii) The price paid for similar lands in the vicinity n recent years, after making all proper allowances for lapse of time, advantage of situation, etc.

(iii) The net annual income from the land which may be capitalized at a certain number of years' purchase—the number of years depending upon the nature of the property, the state of the money market and other circumstances of the case. This method is more suited for land with buildings on it; but even in the case of buildings it may not be a fair method, as the present rental may be too low or too high. It may be usefully adopted for purposes of comparison with the evidence of sales when both are available, and it may be resorted to when there is no other evidence available.

2. The evidence of expert valuers is sometimes relied on; but in this State there are at present very few persons belonging to the professional class of expert valuers, and under present conditions, it is not usually safe to act on this kind of evidence unless it is supported by or coincides with other kinds of evidence–and in any case such evidence should of course specify not only the conclusions of the value but the reasons upon which his conclusions are based. The opinion of a panchayat consisting of persons residing in the locality of the property to be acquired may be of value but the opinion must be viewed with extreme caution. Similarly the evidence of alleged offers for the land must be viewed with extreme caution. It is easy for claimants to adduce evidence of splendid offers for their land when the offers did not materialize into sales. Evidence of an offer will be entirely inadmissible unless the offer is proved by the offerer himself and unless he is prepared to state the grounds on which he offered to pay the price.

The evidence afforded by previous awards of Collectors for similar land cannot be used as authoritative evidence of market value, as they are only the individual opinions of the Acquisition Officers against which there would have been no appeals if the amounts awarded exceeded the real market value. It will be different if the awards were those of a Court. These latter will be admissible in evidence as the Court determines the amount to be paid after a judicial consideration of all the circumstances of the case.

148467

3. The best method of fixing the market value of land is to make use of the price paid for it by the owner in recent years. But two considerations should be borne in mind: (i) whether he has paid so high a price that it may be considered that he has not displayed the ordinary caution which a purchaser of land should display; and (ii) whether there has been any rise or fall in the value of property in the neighbourhood within the time which has elapsed between his purchase and the date of the notification under section 4, sub-section (1), of the Act which would indicate that the property is worth more or less than the amount which he paid for it.

4. If the price paid for the land in recent years is not ascertainable, then the price paid for similar lands in the vicinity should be considered. In considering such sales, care should be taken to exclude all transactions in which, taking advantage of the pressing need of the buyer, the seller obtained as the price of the land a much larger amount than its proper value. The buyer may have had to pay the particular price for the land because no other land would suit his requirements. If the Government had acquired such land, they would have had to pay for it only such an amount as the owner would have been likely to get if he had wanted to sell the plot in the open market and there had been no neighbour compelled by circumstances to purchase it. When considering the case of neighbouring lands which have been sold, the transactions should be compared with the case of the land to be acquired to see in what points they do or do not resemble each other. There may be trees, wells or buildings on the lands which may not have been mentioned in the sale-deeds. If such exist, their value should be deducted in order to ascertain the net price paid for the land sold, which alone will assist in calculating the value of the land to be acquired.

In calculating the real value of a property in the open market, from instances of recent sales of similar property in the vicinity, sales by limited owners should be distinguished from sales in the open market by absolute owners. In one case it was held that a sale of a piece of land by a Hindu childless widow could not be treated as a fair basis for calculating the market value of a similar piece of land in the neighbourhood inasmuch as the full value of property is seldom realized in such transactions. (57 I.C. 734.)

In the case of dry lands irrigated by wells the market value is not so uniform as in the case of ordinary wet or dry agricultural lands since their value will depend not only on situation and fertility but also to a large extent on the capacity of the wells, which varies greatly from field to field. If sale figures are not available for the actual field which is being valued, transactions may be available in respect of similar fields comparable in all respects or only in respect of fields with greater or less advantages for which due allowance has to be made. In the latter class of cases, it is necessary to corroborate, by an independent indirect method such as the capitalization of the net return obtained from lease-deeds or otherwise, the estimate arrived at by a comparison of sale-prices. If by the acquisition of irrigated lands,

M

portions thereof which are not being acquired are deprived of or cut off from their irrigation source, the owners should be compensated for the loss of irrigation facilities in respect of these portions unless arrangements are made to continue the facilities. It should be noted that to the damages awarded for the loss of irrigation facilities, severence, etc., the 15 per cent statutory allowance for compulsory acquisition should not be added—vide the wording of section 23 (2) of the Act.

6. The right to take sub-soil water from land to be acquired is not one of the benefits arising out of land which the Court or the Collector should take into account in awarding compensation. After acquisition, the acquiring body can use the land for whatever purpose they want to use it including the digging of a well in it and if by so doing they draw off the sub-soil water, no claim or damages would lie.

(G.O. No. 536, Revenue, dated 8th October 1920.)

CHAPTER XI—BUILDING LAND.

Owing to the advantage of its situation, agricultural land may be adaptable for building purposes and if there is a present demand for it as building site it should be valued as such and not as agricultural land. The demand for it for building purposes will depend upon its location—nearness to the sea, a railway, main road, or the existing houses—and upon its size and shape, elevation, accessibility to a road, frontage, the nature of its foundation (rock or sand below the surface) and other special considerations. If there is a present demand for agricultural land for building purposes its market value should be calculated not merely according to the actual use to which the land is now put, but with reference to the most lucrative and advantageous way in which it is capable of being used to-day (15 Bombay 279). The owner is not to be deprived of the most advantageous way in which his land can be sold simply because it is subject to immediate acquisition [33 Bombay 28 (13)]. In assessing compensation, the Acquiring Officer should consider not only the present purpose to which the land is applied, but also any more beneficial purposes to which in the course of events, it can within a reasonable period be applied. That is to say, if the land actually has to-day an enhanced value because of its possible use as a building site, owing to a growing demand for building land in the vicinity, then, in calculating the market value of the land, this factor must be allowed for. Special adaptability for building is an element to be taken into consideration. All advantages which the land possesses in the hands of the owner may be taken into consideration and the owner is entitled to have the price assessed with reference to those advantages which will give the land the greatest value (83 I.C. 442). The probability of a more profitable future use is one such advantage which may be taken into consideration, but it is only the *present value* of the future use which must be paid for.

2. The special adaptability should be valued in accordance with the instructions in paragraph 5 of Chapter IX. Examples of such special adaptability values are, agricultural land useful for building purposes, land near a reservoir making it suitable for building a mill, land near a lake making it specially adaptable for a reservoir, land containing potential springs suitable for a water-supply scheme, etc.

(G.O. Ms. No. 1886, Revenue, dated 7th August 1940.)

3. The mere fact that the soil is such as will support buildings is not enough to convert the land into building sites. It has been frequently laid down that while the owner is entitled to be compensated at the highest rate for which he can sell the land for the most remunerative purpose for which it can be utilized, he is not entitled to be compensated for potential values when the opportunity for making such use of the land for the purposes which might create those potential values is so remote as to be negligible. (G.O. No. 1469, dated 22nd September 1925). Although land may possess certain potentialities, it does not follow that these potentialities have any present value. The value to the owner consists in all the advantages which the land possesses, present or future, but it is the *present value* alone of such advantages which has to be determined. The true test is to consider whether there is a demand in the locality for building sites independently of the proposed acquisition. If there is such a demand then the value to be awarded is as for building land. It must be shown that there have been actual sales at rates well above the agricultural rate in the immediate vicinity and that these rates were really paid for non-agricultural reasons.

4. Two important considerations must be borne in mind :—

(i) Whether the land in its present condition is fit for building. If it is not, the outlay required to convert it into building sites must be taken into account in fixing its market value.

(ii) Whether there is a demand for the whole of the land. Sales of small plots for building sites afford no indication that the whole land will in the near future be required for building sites. If a large number of years must elapse before the whole block can be taken up as building sites, the present value of the amount realizable after the lapse of so many years will have to be arrived at.

5. It has been frequently laid down by Courts that the rates at which small plots of land have been sold cannot be applied to cases of the acquisition of large plots especially for village or town sites. (42 Allahabad 555). The Madras High Court has observed that

"the acquisition of a small plot of 18 cents at Rs. 15 a cent cannot be made the basis of valuation for a plot like the one in question (8½ acres). It is impossible to say that such an acquisition stands on the same footing as the present one, nor can we properly deduce the market value of the land from such an acquisition as that, for when very small plots are acquired the actual rates at which they are acquired are not often properly scrutinized, the whole cost of the acquisition being small."

But when no other evidence is available, the sales of small plots enable the Court to give an opinion regarding the value of the different portions of the plot and the value of the whole must be deduced from these. (33 Bombay 325.) When the Government organizes a scheme for the extension of house-sites and acquires a large plot of land, in assessing its value it must be remembered that the owner cannot obtain a price for the whole of it at anything like the value paid for small plots in the vicinity. It may take several years for a demand to arise for the whole plot. Even if it were to be parcelled out into a number of small building sites the owner probably could not at once realise for them prices equivalent to those realized by the previous sale of a few similar plots in the neighbourhood. The mere fact that Government has suddenly come into the market to acquire a large plot and has selected a particular plot and made it fit for building will not affect the market value of the plot before the date of the notification under the Act, i.e., at a time when no such future utility was contemplated.

6. While the special adaptability of agricultural land for building purposes is an element to be taken into consideration in fixing compensation the land cannot be valued as building sites if on account of any special circumstances of the case the use of the land as building sites would never be permitted. (33 Allahabad 733.)

7. The principle that an owner is entitled to the market value of the property not according to its present disposition but laid out in the most lucrative way in which he can dispose of it was applied in Bombay even to hypothetical building schemes and in the extraordinary developments which it assumed there, future utility was not estimated merely by prudent business calculations. Mere speculation was allowed to have a large influence, but this development was finally discredited even there. In Madras it never found favour. In 15 I.C. 672 (a Madras case) it was laid down that an award cannot be made on mere speculation and hypothetical schemes regarding the future development of land. The proper method to be followed in fixing the market value of land is to ascertain the prices at which similar lands in the vicinity are being sold.

CHAPTER XII—AGRICULTURAL LAND FIT FOR QUARRYING.

When land is being acquired for use as a quarry the fact that the land is adapted for quarrying is a special circumstance which the owner is entitled to take advantage of, despite the fact that no one other than the local or other authority, for which the acquisition is being made, has ever or will ever make any demand for the land as a quarry. (44 Madras 268. 38 Bombay 37.) Compensation therefore should not be awarded for such land as mere cultivable land. In the case reported in 33 Bombay 483, it was, however, held that the possibility of using

the land for quarrying must be capable of realization. When the owner of the land had permanently leased it in several small parcels for building purposes, though the whole land as such, was fit for quarrying, its use as such could not become a realized possibility, and it was not competent for the owner after the award had been passed to convert it into a realized possibility by the expedient of buying out the permanent tenants.

2. In assessing the compensation to be paid for such land, it is first necessary to estimate the amount of gravel which can be realized from the land, having regard to the depth of the gravel in various parts of the land. The value of this quantity of gravel to the owner will be not the total value of the whole quantity paid at once, but the value of the cartloads of gravel to be extracted from time to time for a certain number of years according to the demand of the district board or other acquiring body. The amount of compensation to be paid to the owner will therefore be the present value of what he might expect to realize in the future. The quantity likely to be required every year and the price of the gravel in the particular year will both be matters for rough estimation upon the available evidence.

(44 Madras 264-44 I.C. 1.)

3. The compensation was calculated on a different principle in the case reported in 39 Indian cases 14 (Patna). The Government had been taking gravel from the land, and paying the owner at a specified rate. Subsequently, it was resolved to acquire the land and compensation was assessed by the District Judge at 20 times the average income actually obtained by the owner from lands of similar description and area. The owners claimed compensation for the entire amount of gravel from the land, at the rate at which Government had been paying them. This claim was not admitted and it was held that the method adopted by the District Judge was correct.

CHAPTER XIII—BUILDING SITES.

When claiming compensation for property suitable for building sites an owner may see to prove, either what the property would realize if sold in one block, or what the present value of the property would be if he were to divide it into plots and sell it in lots. When no evidence has been adduced of sales in the neighbourhood of such a large block of land, the evidence of sales of small pieces of land in the neighbourhood enables the Court to form an opinion regarding the probable value of different portions of the block, and the value of the whole must be deduced from this (33 Bombay 325). The value of the large block of land however cannot be deduced from the value of the small plots by a mere process of arithmetical calculation, as the supreme consideration

is the immediate demand for the land in the market and this demand may not be sufficient to enable such prices as have been realized for a few small plots already sold to be realized for the whole property whether sold in lots or as a whole.

2. In valuing land suitable for building sites, the portion immediately abutting on a road has to be valued separately from the portion lying further away from the road. When determining the value of former, breadth from the road frontage is a question of supreme importance. What is a suitable breadth must depend primarily on the character of the buildings in the locality. It cannot for example be taken as a hard and fast rule that the portion lying further away from the road must be worth half the portions immediately abutting the road. But it is reasonable to bear in mind how far a portion lying further away from the road stands from the road and fix its value with due regard to this and other considerations. (33 Bombay 325.) When the site is a small one, however, no differentiation in value can be made between the portion actually abutting on the road and the portion lying somewhat further away from it (84 I.C. 371.) The fact that a site has frontage is of importance because of the special facilities or adaptability of such a site. Such a site consists of land lying alongside the public way with a certain amount of breadth away from the road. What should be allowed for the existence of frontage, varies according to the locality and the nature of the public way. The criterion is the most lucrative use to which the frontage in the particular locality can be put and the precise breadth which best suits that particular use in that particular locality.

CHAPTER XIV—BUILDINGS.

It is a fallacy to value land and building separately, and take the total as the value of both. The property must be valued according to what it is worth in the market, and not according to what it cost. The market value of the property must be fixed on the basis of the net rental value of the whole property. The building cannot be separated from the land for it will be impossible to say what proportion of rent is to be fixed on the building and what proportion on the land. When a property consisting of a building surrounded by $8\frac{1}{2}$ acres of garden land had been let as a whole block for several years before the acquisition of it by the Government and the lower Court awarded 20 times the net annual rental (deducting municipal taxes, revenue charges and cost of repairs) as compensation to the owner, the Madras High Court held that it was a reasonable price and that it was not a proper method to value the land and building separately as independent items and award the aggregate value as compensation.

2. There is no objection to giving surplus land a valuation, but it must be really surplus land, separatable from the building and its compound.

3. The market value of a building with its site is arrived at by capitalizating the average annual letting value. From the gross rent obtainable for the building the following deductions should be made:—(i) Taxes and land revenue charges which the owner has to pay and (ii) the annual cost of ordinary repairs, which the Madras High Court fixed in one case at a month's rent. In the case of buildings which are in reasonably good condition, the resulting net annual rent should be capitalised at a certain number of years' purchase which must depend on the rate of interest which gilt edged securities will yield in the money market. For this purpose, the rate should be taken as the average yield on long-term securities at the time having a currency of, say, 30-35 years. If, as is the case at present, long term securities with a currency of 30-35 years are not available for the purpose of calculation, the average yield of medium term securities having a currency at that time of, say, 15-20 years should be taken as the basis with an addition of one per cent to such yield to work out the rate for a long-term security.

Illustration.—At the present time the securities which would be considered in such a connection, are—

(1) the 4 per cent Government of India 1960-70 loan,

(2) the 3 per cent Government of India 1963-65 loan, both of which in accordance with the usual practice would probably be redeemed in the earlier year mentioned, and

(3) the $3\frac{1}{2}$ per cent Government of India non-terminable loan—a form of paper which tends to indicate the market rate. The average of those three is $3\frac{1}{2}$ per cent. The addition of 1 per cent would give a rate of $4\frac{1}{2}$ per cent for a really long-term security. At that rate the number of years purchase would be 22 years.

If the building is unsubstantial or unlikely to stand long, the net annual rent must be capitalised at a smaller number of years' purchase, depending in each case, on the nature of the building.

(G.O. Ms. No. 2801, Revenue, dated 9th December 1941.)

4. When there has been no sale in the neighbourhood of similar buildings and the building in question has never been rented, the only course left open for ascertaining the market value is, to enquire into the original cost of construction. (44 I.C. 883). In arriving at the cost of a building the acquisition officer should consider the condition of the building and make due allowance for depreciation. He should not only make his own enquiries but should supplement them by obtaining an estimate of the cost of the building from the Public Works Department. This estimate may be taken as a guide though not the sole determining factor in arriving at the market value. Buildings which are substantial structures and which are considered by the revenue officers to be likely to cost more than Rs. 2,500 should be valued by the Public Works Department Officers unless because of distance or other reason this course would cause undue delay.

(G.O. No. 210, Revenue, dated 24th January 1917.)

5. A property must be valued either on the rental basis, or on the basis of sales of similar properties in the neighbourhood, or on the basis of the original cost of the construction of the building. It is hardly necessary to point out that the first two methods must not be mixed up. In one case an acquiring officer calculated the market value of a property consisting of a building and the site on which it stood, by capitalizing its net annual rental value and adding to the amount so arrived at, the cost of the building. As the rent derived for the property included the rent of the building, the method adopted clearly involved a double payment.

6. It must be remembered that according to Section 49 of the Act a part only of a house, manufactory or other building cannot be acquired under the Act, if the owner desires that the whole should be acquired. When the question arises whether any land proposed to be acquired does or does not form part of a house, manufactory or other building, the test is to consider whether it is reasonably required for the full and unimpaired use of the house, manufactory or other building. This is a question of fact depending upon the circumstances of each case. The Madras High Court have held that when any portion of a block of buildings structurally connected with the main block is acquired, the burden is on the Government to show that the portion is not reasonably required for the full and unimpaired use of the house (27 Madras, 350). Godowns necessary as a residence for servants are part and parcel of a building and in fact are a most important part of the building for the purpose of letting it as a place of residence. In some cases such godowns therefore cannot be acquired under the Act without the consent of the owner. The question is however one of fact.

7. If in compliance with the desire of the owner the Government resolve to acquire the whole building, a fresh notification and a fresh declaration will be necessary. The Collector cannot proceed to pass his award for the whole building, without starting fresh proceedings for the portion not notified for acquisition. The Government have, of course, the alternative of withdrawing under Section 48 from the acquisition of the portion already notified for acquisition if possession has not been taken.

CHAPTER XV—TREES AND TOPES.

Property consisting of land containing a plantation of fruit trees must be valued like all other property on the basis of the prices for which similar property in the vicinity has been recently sold or purchased. If there have been no such sales, the rental of the plantation must be taken as the basis. The suitability of the land for the purpose of the plantation and its situation with reference to the market for the fruit are points for consideration. It is not a correct method to value the land as if no fruit trees existed and then to add to this value, the price of the fruit trees valued as timber or as fruit trees yielding a net income.

2. The market value of a cocoanut tope is the price at which the tope would sell in the open market under normal conditions. In a certain case in which a cocoanut tope was acquired the Collector paid compensation separately for the land as agricultural land and for the trees as yielding an annual income. The District Judge awarded the value of the land as building site; and for about 100 cocoanut trees standing thereon, he awarded an amount equal to five years' income from the trees. On appeal, the High Court pointed out that the same land could not be valued as a cocoanut tope and as building site, as the trees would have to be cut down if the site was to be used as building site. As there was no proper evidence of the market value of similar tope lands in the neighbourhood, the High Court fixed the market value by capitalizing the net income from the tope. In such cases there must be proper evidence as to the number of years during which the trees will continue to yield and as to the average income per tree.

3. In the present condition of the money market in this country it may reasonably be assumed that an investor will not expect to realize more than 5 per cent interest on money invested in a first class security. Assuming that immovable property yielding a certain fixed average annual income will yield that income in perpetuity, it is therefore usual to arrive at the value of that property by capitalizing the net annual income at 20 years' purchase. To arrive at the market value of immovable property in no case should income from it be capitalized at more than 20 years' purchase. For instance it will not be proper to assess the value of a cocoanut tope which is likely to yield a fixed annual income for 50 years at 50 times the average annual income. Though the total income from the tope during the 50 years will be 50 times the annual income it is the present value of the total income which has to be awarded as compensation; and for all practical purposes the immediate payment of 20 times the annual income may be taken to represent the the present value of all the income which may be expected from the tope in the future.

4. The seigniorage rates for cocoanut, palmyra and other trees cannot form the basis for valuing them. When their value has to be paid under the Land Acquisition Act, trees and topes must be valued like any other items of property, at the market rates which should be ascertained by the usual methods followed in valuing the property. Seigniorage rates fixed by Government are unsuitable as they are intended to represent the value of the trees as timber, and even then a value fixed by the Government departmental rules is an average for a district or group of districts and not the actual value of the trees as timber in any particular town or village. Fees paid in any particular year for the use of trees for tapping are a very unsafe guide for ascertaining their value.

5. When fruit bearing trees exist on land which is valued as building site the owner of the land cannot claim the value of the trees as sources

of income. The proper value of the trees will be their value as timber. When the value of a property consisting of land with trees on it is assessed on the basis of rental, the value of the trees should not be separately assessed as timber, as the capitalized value of the rental will include the value of the land with the trees on it.

CHAPTER XVI—THE PRINCIPLE OF REINSTATEMENT.

When the property to be acquired is used for some particular purpose which is not of a commercial nature, such as for a public path, for a church or for a school, it is difficult to estimate its value. The income derived from such land will not constitute a fair basis for assessing its value. One method which might be adopted in valuing such property is that known as " reinstatement " by which is meant that the amount of compensation to be awarded should be assessed according to the cost of acquiring an equally convenient site and erecting equally convenient premises. This principle, however, is not recognized in the Indian Law of compensation. The principle applied in the Indian Law is that anything which produces no income, profit or advantage capable of expression in terms of money can have no market value.

2. The principle of reinstatement may, however, be applied to check an extravagant claim. A well in pirvate property saved its owner Rs. 100 in water rate. On its acquisition the owner claimed Rs. 2,500 as its capitalized value. The cost of sinking a new well on his remaining property would not have exceeded Rs. 1,000. Though the law does not provide for reinstatement, this is clearly a case in which the compensation to be awarded should not much exceed the cost of building a new well.

3. The principle is thus applicable to the acquisition of a well or a tank. In valuing a tank or a well, the cost of construction of a similar new well or a new tank may be calculated, and a deduction may be made if the tank or well to be acquired is in bad repair. If it has fallen into disuse, compensation is to be allowed only for the present value of the materials. The value of the land on which the tank or well is situated should of course be paid for. If the tank or well is used for irrigation purposes, an additional factor must be taken into account. If, by the construction of a new well or tank, there is a diminution in the extent of the irrigated area then for the damage caused to the owner by such diminution compensation should be paid. This will really be covered by section 23 (i) *fourthly*, of the Act as a case of injuries effect on other immovable property.

CHAPTER XVII—VALUATION OF LAND IN AN ESTATE AND THE APPORTIONMENT OF ITS VALUE.

In valuing ryoti land situated in an estate as defined in the Madras Estates Land Act, the following considerations have to be borne in mind :—

1. The market value of the land is the price which it would fetch in the open market. A full title in such land is seldom sold or purchased in the open market. It is only the kudivaram or the ryots' interest in it which is normally subject to the sale and purchase. The price realised by the transaction goes entirely to the ryot who sells his interest in the land and the landholder—using the term in the sense in which it is defined in the Madras Estates Land Act gets no portion of it. The purchaser steps into the shoes of the vendor as the ryot and has the same obligation as the vendor to pay the rent fixed on the land.

2. The market value of the ryot's interest has to be fixed with the help of the sale deeds for similar lands in the vicinity. If they show that the land can command a higher price than ordinary agricultural land by reason of its being fitted for building or other special purposes, the whole of such price must ordinarily be paid to the ryot. The acquiring officer need not enquire why the ryot got a particular price for such similar land; but he must be satisfied about the actual similarity. If in such a case there have been no sales in the vicinity of similar lands, i.e., of lands which, by reason of their situation are fit for building or other special purposes, this circumstance which differentiates the particular land to be acquired from other lands must be given due consideration in fixing its value.

3. The interest of the landholder in the land is the right to collect a fixed rent on the land subject to the payment out of it of the proportionate peshkash or quit-rent due to the Government. The difference between the rent and the peshkash or quit-rent is the income derived from the land by the landholder. Compensation has to be paid for this interest in the land. This interest comes for sale into the open market only on those rare occasions on which a landholder sells a portion of his estate. If the lands involved in such sales are similar to the land to be acquired, then the melvaram of the land to be acquired may be fixed with reference to those sales. If there are no such sales of similar lands, the only method of valuing the interest of the landholder is to capitalise his net income from the land. For this purpose, the gross income of the landholder from the land which is being acquired should first be ascertained, taking into consideration the average remissions if any and the following deductions should be made therefrom, viz.—

(1) the cost of collection and administration which may normally be taken as 10 per cent of the gross income (this percentage may be varied according to the circumstances of individual cases); and

(2) the proportionate amount of peshkash or quit-rent payable by the landholder to the Government in respect of the land acquired.

The resultant figure will be net income of the landholder.

The rate of interest on and the market price of gilt-edged securities prevailing on the date of the notification under section 4 (1) of the Land Acquisition Act should also be ascertained. The capital sum which, when invested at the above market price and rate of interest, will produce an annual return equal to the net income as defined above should be calculated and 15 per cent thereof should be added for compulsory acquisition, and the resultant figure should be awarded as compensation for the interest of the landholder. (G.O. Ms. 591, Revenue, dated 4th March 1938.) Under Sections 30 and 31 of the Madras Estates Land Act the rent may be enhanced under certain circumstances, but the chance of such enhancement is usually negligible and need not be taken into account, unless the landholder can prove that he has a right to enhance the rent at an early date. Usually therefore no compensation need be paid for this chance of enhancement.

4. The market value to be paid for land acquired if situated in an estate is therefore the total of the value of the kudivaram or ryot's interest and the melvaram or the landholder's interest in the land. This total amount must be apportioned in the award between the ryot and the landholder. The ryot gets the full market value of his interest and the landholder the value of his interest as fixed in paragraph 3 above. If the landholder takes objection to this apportionment of the compensation, the acquiring officer has to pay the whole of the compensation into the Court, under section 31 (2) of the Land Acquisition Act, and make a reference to the Court. The matter of the apportionment will thereafter be decided as between the parties in the Court.

5. In the case reported in 36 Madras., 395 this question of apportionment between the zamindar and the ryot was considered by the Madras High Court. It was apparently a case in which the zamindar received a share of the produce as rent. It was there stated that in apportioning the compensation, several factors should be taken into account, viz., the respective share of the zamindar and ryot in the produce, the expenses of cultivation, the fact that the cultivator had a home and a sphere for labour for himself and his family and the nature of the tenure. In the particular case there was no evidence on the part of the zamindar concerning the ratio of compensation to which he was entitled. Their Lordships thereupon adopted the ratio laid down in 4 Mad., 367 that (3/5) three-fifths was to be apportioned to the zamindar and two-fifths to the ryots with permanent occupancy rights.

6. In rare cases the patta or engagement of the ryot with his landholder may provide special rates or terms if the land should be used for building purposes. In such cases the terms of the engagement will be the guide to the acquiring officer in apportioning the compensation.

7. When in an estate as defined in the Madras Estates Land Act 'Waste' lands or porambokes such as the beds of channels or tanks

which are not set apart for the common use of the villagers and which belong to the landholder are acquired, the market value of the land should be paid to the landholder. The market value of such lands should be fixed by determining the market value of the occupied lands of the same quality in the village and deducting therefrom the amount required for rendering the lands in question fit for cultivation. As no rental or revenue is derived by the landholder from such lands or the rental or revenue derived is negligible, there is no need for any additional compensation by way of reduction of peshkash or otherwise.

(B.P. Mis. No. 1036, dated 20th April 1927.)

In the case of whole-inam villages however, compensation by way of reduction of quit-rent or kaval fees should be allowed if such lands had been assessed at the time of the inam grant even though no income is derived by the inamdar from them.

(G.O. Ms. No. 460, dated 5th March 1934.)

In the case of lands which belong to the landholder and from which he derives a regular income, as for example, home-farm land, it will be necessary to allow a reduction of peshkash. To determine this amount of reduction an assumed rental for the lands must be adopted with reference to the rentals actually received from similar lands in the neighbourhood, the kudivaram interest in which is owned by somebody other than the landholder.

8. When wet lands are acquired in an estate in which the mamul wet area has not been localized, it is sometimes difficult to decide whether the lands which are being acquired are or are not mamul wet lands. If the water rate due on the lands in the estate is in practice being collected from the tenants the lands for which the tenants pay water-rate are presumably not mamul wet lands and the exact nature of the lands which are being acquired can be determined by ascertaining from the accounts maintained by the village officers whether water-rate is or is not actually being paid on them by the tenants. If, however, the whole of the water-rate on the lands in the estate is in practice being collected from the landholder the case is not so simple. In these circumstances the lands to be acquired should, in the first instance, be treated as not mamul wet lands and should be valued on that basis. If, however, the landholder or the tenant is dissatisfied with this procedure and the amount of compensation calculated in accordance with it and proves that any particular piece of land is mamul wet land, the land should be revalued as such and the amount of compensation to be paid to the proprietor and the tenant respectively should be calculated on that basis.

CHAPTER XVIII.—DAMAGES TO BE INCLUDED IN COMPENSATION.

Under the first clause of section 23 (1) of the Act, the Collector has to pay the market value of the land acquired at the date of the notification under section 4, sub-section (1), and has also to pay, under section 23 (2), 15 per cent of such market value in consideration of the compulsory nature of the acquisition. In the term market value is included not only the value of the land but also the value of any trees and crops standing on the land at the time of the notification under section 4, sub-section (1), if they are not removed before the Collector takes possession of the land. In addition to paying the market value, the Collector has to consider certain damages which may be sustained by the person interested in the land and to pay compensation for such damages if any. This matter is dealt with in section 23 (1), clauses 2 to 6.

2. *Clause secondly.*—If there are trees or crops standing on the land at the time when the Collector takes possession of the land, the value of which is not included in the market value as explained in paragraph 1 above, then the value of such trees or crops should be paid for. Obviously these trees and crops will have come into existence subsequent to the date on which the land was inspected for the preparation of the notification under section 4, sub-section (1), and for the preparation of the valuation statement. As a rule the Collector will do well to avoid paying for such trees and crops and to persuade the owner to remove them himself, before the Collector takes possession of the land.

3. Except in cases of emergency the owner of the land should be allowed to harvest the standing crops before the land is taken possession of. In cases of emergency, if it becomes necessary to take possession of the land with crops standing thereon, their value should be paid for. If the crops were on the land on the date of the publication of the notification under section 4 (1), 15 per cent of the value should also be awarded in consideration of the compulsory nature of the acquisition. If the crops were raised subsequently, damages sustained by the person interested by reason of the taking of the crops should be paid for. The 15 per cent allowance for compulsory acquisition need not be paid in connection with these damages. The measure of damage will depend on the circumstances of each case. If the crops are quite tender, the cost of cultivation and of sowing will be the measure of the damage. If the crops are well matured, the value of the expected outturn less the cost of the harvest, will be the measure of the damage. If the crop is immature its gross value will be its value, when mature, based upon its present condition subject to a deduction for the cost of reaping it and preparing it for market and of any further village watching, etc., which may yet remain to be done and any rent or assessment for the year not yet paid.

4. *Clause thirdly.*—The damage sustained by the person interested at the time when the Collector takes possession of the land by reason of the severing of such land from his other lands has to be paid for. There will be no occasion, however, for paying for such damages if the Collector has carefully examined the question before publishing the draft declaration under section 6 and has finally notified the boundary so as to include such fragments of land as could not reasonably be left out, or for which a severance claim would be excessive.

5. To sustain a claim under this head, the land acquired and the remaining land must together form one holding, where several pieces of land owned by the same person are, though not adjoining, so near together, and so situated that the possession and control of each gives an enhanced value to all of them as one holding, they are lands held together; so that, if one piece is compulsorily taken and converted to uses which depreciate the value of the rest, the owner has a right to compensation. Two classes of cases may be distinguished—(1) The damage may be sustained, e.g., by loss of access across the acquired land to the remaining land. If no other access is possible for the remaining land, then the remaining land must also be acquired. If some other access is possible though it is not as convenient an access as the one over the portion of the land acquired, then compensation should be paid for the damage incurred by the loss of the convenient access. (2) The land left unacquired may be a piece too small for profitable cultivation or other use. It may be either quite useless to the owner who can then claim its full value; or become diminised in utility, when part of its value may be awarded. But if the amount likely to be awarded for a severance approaches the full value of the land, Government can decide to take the whole land under section 49 (2). In this latter case, no fresh notification or declaration is necessary. The Local Government has to order the acquisition of the whole land and it is enough if the Collector furnishes a copy of this order to the person interested and then proceeds to make his award under section 11.

6. The damage must arise out of the severance, and be the direct result of it. In deciding whether a portion of a property can be taken without detriment to the remainder, the Collector should take into consideration all the circumstances of the case including the sufficiency or otherwise of any proposed new access. Thus when a railway company took a portion of certain premises and provided access to the remainder by means of a right of way over the portion taken, it was held that the company could grant that right of way, and the damage by severance must be diminished correspondingly. Similarly when a part of a tea garden was acquired for the construction of a railway through it and the garden was divided into two portions, and the coolies could not cross freely because the railway ran in very deep cuttings, it was held that the owners of the garden were entitled to compensation by reason of the severance, because extra coolies were required for the further portion of the garden and the cost of working that portion was substantially and permanently increased. The additional compensation to be paid on

this ground was taken as the capitalized amount of the cost of extra labour so required yearly. (28 Calcutta, 685.) The measure of such compensation is the full consequential loss, which owner has sustained by reason of the severance of the land taken from his other lands.

7. The damage must be one sustained at the time when the Collector takes possession. This would seem to include not only damage actually caused at the time, but also the damage which could be reasonably anticipated and estimated then. Compensation must be paid, not only for the damage sustained at the time, but also for a continuing damage caused by the acquisition (25 Calcutta, 346).

8. No doubt if the use, to which the land when acquired is put, causes damage or diminution of value to the remainder of the estate not acquired, then a severance claim can be sustained. But if the land to which damage is thus caused is not in the ownership of the parties to the acquisition, the owner of the land expecting or suffering the damage (unless it be a loss of easement to the owner of the acquired land) has no status before the acquiring officer. He is not a party interested within the meaning of section 3 (*b*) of the Act. He can only bring a suit for damages just as, and no more than he might, against any other neighbour who has used his land in a way which has caused him injury and which is legally actionable. When a claim for severance was based on the prospective employment of a Brahman cook to carry offerings of food to the idols of a temple, it was held that the claim was too sentimental to admit of any compensation being awarded (10 Bombay, 591).

9. *Clause fourthly.*—This clause embodies the English principle of injurious affection. The principle is that persons a part of whose land has been taken compulsorily from them, should, apart from its actual value, be compensated for injuries done to their other property by the taking. The claimant must be a person interested in the land acquired. No one who is not interested in the land acquired can claim compensation on the ground that his land which was not acquired was injuriously affected by the acquisition, or that his movable property was so affected, or his earnings. He may have a claim for damages under the general law enforcible in a civil court but not under the Land Acquisition Act. Where land was taken out of a tea garden for the construction of a rifle range near a cantonment for the use of troops, and there was evidence to show that the rifle range would interfere with the working of eight acres of land behind the butts—for no prudent owner would put his coolies there while firing was going on—the value of the remaining property became depreciated and the owner was entitled to compensation (2 Indian Cases, 562).

10. The distinction between the third and fourth clauses has to be observed. Clause thirdly deals with the damages caused to the owner of the acquired land by reason of the acquisition severing the acquired land from the other land of the owner. Under the fourth clause, the damage dealt with is that caused to the owner by the acquisition causing some injury to his movable or immovable property or to his earnings. Under the former clause the damage if any caused by the mere severance has to be paid for, while under the latter clause no compensation will be

payable unless the remaining property is injuriously affected, or the earnings of the owner of the land acquired are injuriously affected by the acquisition. The distinction is not very broad or sharp and cases may occur which will fall under either clause.

11. The principle of injurious affection was held not to apply to the case of the construction of a railway bridge across a river near the place where a ferry existed. If by the acquisition the plying of the ferry was interfered with, so that the profits of the ferry were reduced, the owner of the ferry could not claim damages. But when both banks of the river which were used as landing places for the ferry were acquired for the purposes of the bridge and the access to the river, and with it the opportunity for plying the ferry were destroyed, the owner was entitled to compensation (34 Calcutta, 270).

12. When land was acquired for opening a sewage depot, the claimant was held to be entitled to compensation on the ground, that n4 em etdcr use of the land acquired caused a depreciation in the value of the claimant's other land, though the sewage works might be so conducted as to cause no nuisance. A mere personal inconvenience is not a ground for compensation, as where a claimant was annoyed by persons standing on the bank of a railway overlooking his premises. (The case cited at 25 Calcutta, 351.)

13. The Government acquired some land to widen a channel and make a flood bank. As a result of it, the claimant had to cross over a great distance to go to his other land for carrying manure, etc. The Madras High Court held that he was entitled to damage for diminished facilities of communication and access to his other lands. (31 Indian Cases, 259.)

14. *Clause fifthly.*—Under this head compensation may be given for the loss which a person interested will sustain by reason of the interruption of his business from the time when he parts with his premises until such time as he can obtain another building for carrying on his business. The costs incidental to removal have been held to cover the value of the unexpird lease in the case of a tenant from year to year.

15. *Clause sixthly.*—The owner of a house would be entitled under this clause to damages for loss of rent during the period stated in the clause if he were unable to let his premises in consequence of the intention to acquire them.

CHAPTER XIX.—IMPROVEMENTS TO LAND EFFECTED AFTER PUBLICATION OF THE NOTIFICATION UNDER SECTION 4, SUB-SECTION (1).

Under section 24 *seventhly* of the Act no compensation need be paid for any outlay on or improvement to the land acquired if it has been made without the Collector's sanction and after the publication of the notification under section 4 (1). What constitutes an improvement in the case of agricultural land must be decided on the facts of each case, e.g., it is clear that the raising of the usual seasonal crops on the land cannot be said to be such an outlay or improvement as will disentitle the owner from being compensated for it under section 23 secondly. It is equally clear that the application of costly chemical manures to the land will not entitle the owner to compensation on that account.

2. When the improvement does not represent anything attached to the ground it should be ignored, as the land owner can remove it. Even when it is something attached, e.g., a house built on or a well sunk in land notified for acquisition, the outlay for making the improvement incurred by the owner should not be taken into account in fixing the compensation. The owner should be paid for the land as it stood on the date of the publication of the notification under section 4 (1). He will have to remove the materials of the house, at his cost and in the case of a well he may be required to fill it up at his cost.

CHAPTER XX—TAKING POSSESSION.

Except as provided by section 17 under which the Collector under certain circumstances may, before passing an award, take possession of waste or arable land (notwithstanding the existence thereon of scattered trees or temporary structures such as huts, pandals or sheds), possession of the land can be taken only after the Collector has made his award. (G.O. Ms. No. 1573, Revenue, dated 17th June 1949.) But neither the fact that the amount of the compensation has not actually been paid nor the pendency of award proceedings in the Civil Court is a bar to taking possession. After possession has been taken in accordance with any provision of the Act the land vests absolutely in the Government free from all encumbrances including easements over it and it is then impossible for the Government to withdraw from the acquisition. Possession in accordance with the provisions of the Act cannot be taken in anticipation of the proper proceedings being taken to acquire the land. Possession under such circumstances can be secured only in one way, viz., by private arrangement, i.e., if the owners of the land agree in writing to permit the departmental officer concerned

to take possession in consideration of the fact that formal acquisition proceedings are pending. Such possession by private arrangement is not possession in accordance with the provisions of the Act and does not prevent the Government from withdrawing from the acquisition. It is, however, seldom desirable to take possession of land in this way, for the action of the departmental officer in so taking possession is likely to lead to difficulties should the Government eventually decide not to acquire the land under the Act and may possibly lead to complications and claims to damages should the reputed owners from whom written consent was taken prove not to be the true owners, or all the true owners, of the land.

2. In cases of urgency possession may be taken under the Act before the award has been passed, but in such cases the following conditions must be fulfilled :—

(1) The land must be waste or arable. The lands may be deemed to be waste or arable even if scattered trees or temporary structures such as huts, pandals or sheds exist thereon. (G.O. Ms. No. 1573, Revenue, dated 17th June 1949.) Arable land means and which is ploughed for annual crops. The expression does not include topes, homesteads, tanks or lands under tea or the like.

(2) A specific order of the Government permitting the Collector to take possession before the award has been passed must have been issued by the Government and received by the Collector.

(3) The declaration under section 6 must have been published.

(4) The notice under section 9 and the notice under section 10 (if necessary) must have been issued.

(5) Fifteen days must have expired after the publication of the notice in accordance with section 9 (1) except in the case specified in section 17 (2).

(6) Before taking possession the Collector must have offered to the persons interested, compensation for standing crops and trees on the land and for any other damage sustained by them because of such sudden dispossession and not excepted in section 24. Care should be taken that the money is not paid to a wrong person.

(7) In the case of a building at least forty-eight hours notice of the Collector's intention to take possession must have been given to the occupier by the Collector.

Such possession cannot be taken in cases of temporary occupation. Only the Collector can take possession under the Act. The officials of a company or a local authority for whom the property is being acquired have no right to enter upon the property in anticipation of the Collector taking possession whether under the ordinary provisions of the Act or under the section which permits the Collector to take possession before the award has been passed.

3. Section 17 (2) deals with cases in which immediate possession may be taken of any land if it is required for the maintenance of railway traffic or for making a river-side or ghat station or for providing convenient communication or access to such station. The provisions of the section should be carefully observed before taking possession thereunder.

4. In certain circumstances the taking of possession may have to be postponed—

(1) If claims have been made largely, in excess of the estimate, and the Collector, though not prepared to allow them, thinks that there are reasonable grounds for thinking that the court may largely enhance his award. If he does not accept them, he should either defer making his award or, if he has made his award and the time for making a reference has not expired, he should defer taking possession until he has consulted the department for which the land is being acquired or his superior officers and has obtained their orders.

(2) Under Section 49 (1), second proviso, the Collector is bound to refer to the Civil Court any question which may arise as to whether any land proposed to be taken under the Act does or does not form part of a house, manufactory or other building. When a reference is made on such a question the Collector should not take possession of the land until after the question has been determined by the court.

5. In the case of acquisition for the construction of new railway lines, the Government usually treat such acquisition as a case of urgency and order that action should be taken under section 17 (1) of the Act and that the provisions of section 5-A may be dispensed with.

6. Whenever land is acquired under the Land Acquisition Act for educational or other public purposes on behalf of private institutions or associations, it should be placed at the disposal of the private institution or association concerned, subject to the conditions which will have been settled prior to the initiation of the acquisition proceedings. (G.O. Ms. No. 3150, Revenue, dated 19th December 1940.) In respect of acquisition and transfer of lands to co-operative housing societies, however, the Registrar of Co-operative Societies has been empowered to execute an agreement and transfer deed on behalf of the Governor and the formal order of placing the land at the disposal of the institution by the District Collector will be dispensed with.

(G.O. Ms. No. 1604, Revenue, dated 31st May 1950.)

7. If a piece of land held under a deed of trust by a college board is acquired for a public purpose and another piece of land is granted in exchange as compensation, the land granted in exchange should be placed at the disposal of the college board subject to the stipulation that the land should be held subject to the terms contained in the original deed of trust.

(G.O. Ms. No. 1578, Revenue, dated 29th August 1922.)

CHAPTER XXI—REFERENCE TO COURT.

A reference may be made under the following circumstances :—

I. Under section 18 of the Act any person interested *may* apply for a reference to the Civil Court on any of the following grounds and the reference *must* then be made :—

(i) that the area of the land as stated in the award is not correct;
(ii) that the amount of compensation is not sufficient;
(iii) that it has been ordered to be paid to a wrong party; and
(iv) that it has not been correctly apportioned among the persons interested.

II. Under section 30, the Collector *may suo motu* make a reference, if there is a dispute concerning the apportionment of the compensation or any part of it, or concerning the person to whom the compensation, or any part of it, is payable. He should always do so when the questions involved in the dispute are too difficult to be satisfactorily decided by him.

III. Under section 31 (2) a reference *must* be made by the Collector to the court if there be no person competent to alienate the land.

IV. Under section 35 (3), the Collector *must* refer to the court disputes concerning the sufficiency of the compensation for lands occupied temporarily or concerning its apportionment.

V. Under section 37, when there is a difference between the Collector and the person interested concerning the condition of the land at the expiration of the term of temporary occupation, or concerning any matter connected with the agreement entered into under section 35 (2), the Collector *must* refer such difference for the decision of the court.

VI. Under section 48 when the Government withdraw from an acquisition the Collector must determine the amount of compensation due for damages if any suffered by the owner in consequence of the proceedings under the Act and must pay him the amount. If the owner is not satisfied with the amount, he *may* ask for a reference to the court and the reference *must* then be made by the Collector.

VII. Under section 49, the owner of a house, manufactory or other building may insist that the whole of such premises shall be acquired and not only a part thereof. If any question arises whether any land proposed to be acquired does or does not form part of a house, manufactory or building, the Collector *must* refer the determination of such question to the court.

2. The application for a reference to the court under section 18 must always be in writing. It may be entertained even if it is sent by post, provided that the Collector is satisfied that it is the genuine petition of the applicant in whose name it purports to have been written. When

a claimant failed to make a written application for reference, but merely mentioned his grounds of objection to the award and threatened to bring a suit, if the property was not released, it was held that this was not an application for reference (73 Indian Cases 127). A time-barred application for a reference to the court should be rejected. Even if the Collector makes a reference, the court should not entertain it (30 Bombay 275).

3. In calculating the period of limitation mentioned in the proviso to section 18, the time spent in obtaining a copy of the award is not to be excluded if the award was made in the presence of the claimant (II I.C. 690). No extension of time can be allowed on the ground of the minority of the claimant (25 I.C. 448). No person who has accepted payment without protest is entitled to make an application under section 18 [*see* second proviso to section 31 (2)].

4. The Collector is bound to make a reference under section 18 if required to do so, and it is no part of his duty to decide whether the claim of the party is well founded or not. It has been decided, by a Full Bench, in 47 Madras 357 that the Land Acquisition Collector is not a court subordinate to the High Court and that the High Court has no power, under section 115, Civil Procedure Code, or section 107 of the Government of India Act, to revise the order of a Collector refusing to make a reference.

NOTE.—Section 227 of the Constitution of India and section 224 of the Government of India Act, 1935, correspond to section 107 of the old Government of India Act referred to in paragraph 4 above.

(G.O. Ms. No. 1763, Revenue, dated 28th August 1937.)

5. Only a person interested in the land can demand a reference. Neither the Government, nor the company, nor the local body on whose application the land has been acquired, can demand a reference.

6. While it is necessary that the application for a reference should state the objection of the claimant, it is not necessary that he should state in detail the grounds upon which he claims a larger sum than that awarded by the Collector. Under section 25 (3) of the Act, it is open to the court to admit any claim which the applicant omitted for sufficient reasons to prefer before the Collector.

7. When a case is referred to the court by the Collector it is the duty of the Collector to furnish full instructions for the use of the Government Law officers concerning the conduct of the case in the court. The Government Pleader will invariably appear, under the instructions of the District Collector, to represent the Government and the District Collector must see that the award of the acquiring officer is properly defended. The defence should be as carefully prepared as the defence in a civil suit against the Government, the responsibility of the District Collector being the same in both cases. If a local authority or company desires to exercise the rights given to it by section 50 (2) of the Act to appear and adduce evidence for the purpose of determining the amount

of compensation, it is at liberty to do so through the agency of its legal representative; but, as neither the local authority nor the company is actually a party in the proceedings, the appearance of its legal representative for the purpose specified in section 50 (2) of the Act cannot replace the appearance of the Law officers of the Government to adduce evidence and argue the case on behalf of the Government. It happens not infrequently that references to the court concerning compensation are decided against the Government for want of proper instructions in the conduct of the case. The burden of proof is, ordinarily, on the claimant in the court to prove that the valuation made by the Collector is insufficient; but the burden will vary according to the nature of the enquiry made by the Collector. If no evidence has been taken by the Collector, and if no reasons have been given in his decision to support his conclusion, the claimant has a very light burden to discharge (34 Calcutta 599) The *ipsi dixit* of a Collector has very little if any weight and is not *prima facie* evidence of the correctness of his award.

SCALE OF FEES IN LAND ACQUISITION CASES.

The Civil Rules of Practice and Circular Orders, Volume I, and Standing Orders 12 (1) and 13 of the Precis of Standing Orders relating to Law Officers of Government in the mufassal issued in G.O. No. 1040, Home, dated 4th April 1956, and Standing Order 9 (1) of the Precis of Standing Orders relating to the Law Officers of the Government in the City issued in the G.O. No. 2606, Public (General), dated 25th September 1958 should be referred to for the scale of fees.

(G.O. Ms. No. 833, Revenue, dated 18th March 1959.)

8. When making a reference to the court under sections 19, 30 or 31 (2) of the Land Acquisition Act, the following points should be borne in mind:—

Civil courts require that each reference should be self-contained and complete with all the relevant papers in the file and all the facts of the case referred for the court's decision clearly and fully set forth. It is essential that a separate reference should be made in the annexed form for each item of the award, with a covering letter to the court. Each reference should be signed by the referring officer himself as required by clause (i) of section 19 of the Act. The number and date of the award, and also the number of the item thereof forming the subject of the reference should be quoted. The date on which possession of the land was taken under the Act should be given. The persons interested should be fully and clearly described and their postal addresses given, and, in the case of minors, their ages and the names and addresses of their guardians should be specified. The schedule of information prescribed by clause (2) of section 19 of the Act should be annexed. A true extract of the award in the standardized form (Appendix XII, Form 8), as also an extract of the award proceedings relating to the item referred to the court, should invariably accompany the reference. In the case of references concerning claims under sections 18 and 30 of the Act the contentions of the parties should be fully and clearly stated, and all documents filed by the parties in support of their claims should be

forwarded to the court if they have not been returned to the parties before making the reference, together with a discussion of the contentions of the parties.

In the case of references under section 19 of the Act, if payment has been made to the awardees, the date and manner of such payment and the person to whom it was made should be stated. If the amount of the compensation has not been disbursed, the amount should be drawn in a ' C ' form cheque and sent along with a ' D ' form receipt in triplicate as required by rule 8 of Appendix II. If the amount has been placed in revenue deposit owing to the non-attendance of parties to receive the compensation awarded, a deposit repayment voucher should be prepared in place of the ' C ' form cheque and it should be duly signed and sent along with a ' D ' form receipt in triplicate. The reference is not complete and it will not be taken on the file of the Court unless the amount is sent to the court along with the reference or details as to the disbursement of the compensation awarded are furnished.

Copies of references under section 19 of the Act should invariably be sent to the Collector of the district to enable that officer to supervise and watch the proceedings in the court. All acquiring officers should therefore prepare three copies of every reference under section 19 of the Act in accordance with the instructions in paragraphs 1 and 2 above, one for the court, one for the Government Pleader and the third for the use of the District Collector. The original statements and petitions of the parties should be attached to the copy of the reference intended for the court, and copies thereof should be attached to the duplicate and triplicate copies of the reference. The sets intended for the Government Pleader and the District Colletcor should be accompanied by a covering letter stating whether the application is or is not in time, and noting therein the amount awarded by the Land Aquisition officer and the amount claimed by the parties at the time of the enquiry under section 9 of the Act and in any subsequent statement at the stage when under section 18 of the Act a reference to the court was demanded. The covering letter should also contain any supplementary instructions necessary for the defence of the award in the individual case in question, stressing any specially relevant portions of the award proceedings, augmenting them where necessary, and pointing out instances in which similar awards were accepted without protest by other awardees.

In the case of references under section 30 of the Act no copy of the reference need be sent either to the District Collector or to the Government Pleader, as the interests of the Government are not involved. It will suffice if the amount deposited in court is shown in the Audit Account statement in the form prescribed in G.O. Mis. No. 892, Finance, dated 20th December 1927. In the reference to the court a summary of the contentions of the parties should be given and true copies only of all the statements and petitions filed by the parties need be sent to the court. The reasons for the reference and the nature of the deposits made should be stated in the form annexed as indicated

in sub-paragraph 2 above. A 'C' form cheque and a 'D' form receipt in triplicate should also accompany the reference.

When the compensation awarded for unenfranchised service inam lands is deposited in court under section 31 (2) of the Act on account of the inability of the inamdars or trustees of the institution to alienate the land, the District Collector must be included as an interested party as he is responsible for taking action in accordance with the orders passed by the court under section 32 of the Act. The reference should be made to the court direct, a copy of the reference being sent to the District Collector for information, and the Government Pleader should be instructed on receipt of the court's notice merely to attend and watch the proceedings and to report the result in due course to the District Collector. The work of the Government Pleader in such cases is treated as petty miscellaneous legal business for which no fees should be claimed under Board's Standing Order 97 (2).

FORM OF REFERENCE TO COURT.

In the Court of the District/Subordinate Judge of

Reference made under section of Act I of 1894.

By whom referred (name and designation of the referring officers.)

Village. Taluk

Number and date of reference.

Serial number of award No.

dated

Particulars of land acquired.			Particulars of trees, buildings, wells, etc.	Particulars of compensation awarded under section 11.	Date of possession under the Act.
S.F. No.	Nature.	Extent.			
(1)	(2)	(3)	(4)	(5)	(6)
....	Dry or wet; inam or Government +.	....	....	Land value. Damages 15 per cent allowance Interest.	....

Nature of persons interested. Description and address

Reasons for reference.

Schedule of information under clause (2) of section 19.

Signature and designation of the referring officer.

9. In passing his award the Collector no doubt acts only as the agent of the Government and is not bound to base his decision on strict legal evidence. But when he makes a reference to the court, he must be able to justify his award on evidence which will be acceptable in the court. For this purpose he must in the course of his enquiry accumulate evidence which may be put on a legal basis when the time comes for defending his

award. In the court, sale-deeds and other documents must be legally proved and proper oral evidence must be let in. If the acquiring officer or other Revenue officer has inspected the land and has compared it with other lands the sale-deeds for which have been considered in making the award, his oral evidence in court will be valuable. A proper plan of the land acquired and of other lands in the vicinity the sale-deeds for which were considered when making the award should be put in as evidence. When it is considered that an inspection of the land will help the court in deciding the claim of the claimant, the court should be moved to make a personal inspection. Extravagant claims are often put forward that agricutlural lands should be valued as building sites, when a personal inspection will expose the extravagance and the hollowness of the claims.

10. If a reference is made on the question of apportionment, whether at the instance of the party or *suo motu* by the Collector, the amount of the compensation the apportionment of which is in question should be deposited in Court. (G.O. Ms. No. 1811, Revenue, dated 30th July 1940.) A portion of it should not be paid to a party who is satisfied with the Collector's apportionment. If such a part-payment is made and the court afterwards holds that more than the amount allowed by the Collector is payable to the party aggrieved by the Collector's apportionment, the money required to satisfy the Court's order will not be available and may have to be made good by the acquiring officer.

11. There are two restrictions placed on the jurisdiction of the court over the whole question of the amount of compensation—

(1) Under section 21, the scope of the enquiry in the court is restricted to the consideration of the interests of the persons affected by the objection. All that the court can deal with is the objection which has been referred to it. It cannot go into a question raised for the first time before it by a party who has not under section 18 obtained the reference of any question to it.

(34 Calcutta 451.)

In a reference relating to a dispute regarding apportionment between A and B, it was held that the judge was wrong in allowing C and D to be added as parties on their own applications and to contest the award on a ground not raised in the reference. The question is dealt with further in Chapter XXII below.

(2) Under section 25, the amount awarded by the court shall not exceed the amount claimed by the applicant, or be less than the amount awarded by the Collector under section 11. When the party refuses to make a claim or has omitted without sufficient reason to make a claim before the Collector, the amount awarded by the court should not exceed the amount awarded by the Collector. When the omission to make a claim is held by the court to have been due to a sufficient cause, the amount to be awarded by the court should not be less than and may exceed the amount awarded by the Collector.

12. The court has the right, and is bound, to decide the total amount due to the claimant for the compensation and the amounts due under each of the items making up the total amount. Nothing in the Act places any restriction on its power to award a less sum under any one item than that awarded by the Collector, but it cannot award a total amount of compensation which is less than that awarded by the Collector.

13. When an objection dealt with in the reference under section 18 relates to one of the headings mentioned in that section, the claimant cannot attack the award in court by making an objection relating to some other heading mentioned in that section.

CHAPTER XXII—APPORTIONMENT OF COMPENSATION.

When passing an award under section 11 of the Act the Collector has to apportion the compensation among all the persons known or believed to be interested in the land of whom or of whose claims he has information, whether or not they have respectively appeared before him. When the several persons interested agree concerning the apportionment, no difficulty arises. If they do not agree, the Collector has to hold a summary enquiry and come to some decision concerning the apportionment. When the apportionment is made under section 11, any party dissatisfied with it may ask for a reference to the court under section 18 and the Collector must make it. If the Collector cannot decide the dispute concerning the apportionment, he must state the fact in the award and *suo motu* make a reference under section 30. When he makes the reference the limitation imposed by section 18 (2) does not affect him; but he should make the reference to the court as promptly as possible.

2. When land subject to a mortgage is acquired and the mortgagor and the mortgagee come to an agreement as to the apportionment of the compensation between them the compensation may be paid in accordance with the terms of the agreement. When there is no such agreement the Collector should not make payment to either of them but should refer the dispute to the decision of the court under section 30 of the Act. This procedure should be adopted whether the mortgage is simple or with possession.

When land on the security of which a loan has been granted by the Government under the Loans Acts, or a portion thereof is acquired for a public purpose, the owner of the land (the mortgagor) should be allowed to elect whether the amount of the award should be credited towards the liquidation of the loan or whether he will furnish such additional security as may be equivalent in value to the land taken up in case the value of the unacquired portion of the land is not sufficient security for the amount of the loan still due from him. In either case a new loan

order should be issued and a fresh security bond should be taken from him excluding the portion of the land to be acquired and including the additional security, if any, furnished by him.

In cases where the mortgagor elects to have the amount of the award credited towards the loan, the revised loan order should be issued only after the award has been announced. In cases where the mortgagor elects to furnish additional security, it is not necessary to wait till the amount has been passed for the issue of revised loan order. As soon as the extent to be acquired is known, enquiries should be made as to whether the remaining security is sufficient for the loan still due to be recovered. If the remaining security is sufficient, a new loan order should be issued and security bonds taken at once excluding the land to be acquired. If the remaining security is not sufficient, the mortgagor should be asked atonce to furnish the additional security required and the new loan order should be issued and security bonds taken excluding the land to be acquired and including the additional security.

In any case a written statement should be obtained from the mortgagor during the preliminary land acquisition enquiry as to whether he elects to credit the amount of compensation towards the loan or whether he will furnish additional security, if necessary.

3. When the different claimants appear before the Collector, it is his duty to make an apportionment of the amount among them or to make a reference to the court under section 30. It is therefore irregular to pass an award in the joint names of the owners of a field merely because the owners are registered jointly as such in the revenue accounts. Such an award is legally incomplete and leads to possible complications, e.g., in disbursing the amount of the compensation after it has been placed in revenue deposit or in making a reference to the court under section 18 on a subsequent application for enhanced compensation by one of the joint awardees. In a recent case the Collector in order to avoid the trouble of apportioning the compensation had recourse to the device of passing the award in the name of a single claimant and arranging with him to pay some agreed amount to the other claimants who were induced to withdraw their claims. Such a method of disposing of the claims of parties in secret without bringing their cases into the record is entirely irregular and of course facilitates fraud. The Collector should have asked the other claimants to file withdrawal petitions in writing and should have kept them on record as part of his award proceedings.

4. In a certain case in which the Collector made a reference concerning apportionment, the Calcutta High Court held that it was not open to the court to allow new parties who had not asked for a reference to be added as parties on their application to the court. A contrary view was however taken in 25 Allahabad, 133. When, under section 30, the Collector has referred to the District Judge a dispute concerning the apportionment of compensation settled under section 11, it was held that it was not *ultra vires* of the District Judge to add a party to the

proceedings before him, having regard to section 53 of the Act and section 32, Civil Procedure Code. The Allahabad view is in accord with the observations of the Privy Council in the case reported in 24 Bombay Law Reporter, 963. Their Lordships observe that " after the Collector deposits the money in court under section 31 (2), the relative rights of the persons together entitled to the award are the subject of litigation in the ordinary way. From the moment when the sum has been deposited in Court under section 31 (2) the function of the award has ceased and all that is left is a dispute between interested people as to the extent of their interests. Such dispute forms no part of the award." This decision of the Privy Council makes it clear that the litigation in court concerning apportionment which is fought out between the interested parties has nothing to do with the proceedings under the Land Acquisition Act.

5. This Privy Council decision has also set at rest the question whether a decision, concerning apportionment by a Land Acquisition Court, involving a pronouncement upon the respective titles of the parties, operates as *res judicata* in a subsequent civil suit between the same parties concerning other properties held under the same title. The earlier view of the Madras and Calcutta High Courts was that it did not operate as *res judicata*. (20 Madras, 269 and 34 Calcutta, 466). The Privy Council decision has however laid down that the former decision operates as *res judicata*, and that it is not open to the court in the case of the same question arising between the parties to review a previous decision no longer open to appeal given by another court having jurisdiction to try the case.

6. The rule concerning apportionment is laid down in 42 Madras, 646. The land must be valued in the first instance including all interests in it and the amount so arrived at must be apportioned among the parties interested according to the value of their respective interests.

7. The method of valuing ryoti land in an estate and apportioning the value between landholder and ryot has been dealt with in Chapter XVII.

CHAPTER XXIII—PAYMENT OF COMPENSATION.

Under section 31 (1) of the Act the Collector must tender payment of the compensation awarded by him under section 11 to the persons interested according to the award and must pay it to them. The rules for payment of compensation are to be found in Appendix II to this Manual. Rule 6 lays down that the acquiring officer should, as far as possible, arrange to make the payments due in or near the village to which the payees belong in order that the number of undisbursed sums to be placed in revenue deposit on account of the failure of parties to attend to receive payment may be reduced to a minimum. Such payments may be in cash or by an order on the Treasury. Rule 14 provides

that the Collector may draw on his own receipt as an advance the total amount to be disbursed by him according to the award and after making payments to the parties, forward the receipts (in Form C or CC) of the payees to the Treasury Officer in adjustment of the advance. If such cash payments are not made, he should countersign the receipt in Form C and make it payable at the Treasury to the payee, altering the words 'Paid in my presence' into 'Pay'. The Treasury Officer will then make the payment on the authority of this order.

2. It will be convenient for the awardees who appear before the Collector on the date of the award, if the amounts awarded to them are paid at once in cash. To give them the C. Form and ask them to go to the Treasury which may be at some distance may cause inconvenience to them. But in the case of acquisitions which involve the disbursement of large sums of money it is desirable to issue orders for payment on the Treasury instead of making payments in cash. Special Officers employed for land acquisition should obtain the orders of the District Collectors concerning the method of payment to be adopted by them.

3. Section 31 (2) details the circumstances under which the Collector must deposit the amount of the compensation in court. Rule 8 of rules issued by the Government (Appendix II) lays down the procedure to be adopted in making the deposit. Even if a person is entitled to receive the compensation according to the award, a civil court may attach the amount before payment. In such a case the Collector should not pay it to the party but should keep it as a revenue deposit subject to the further orders of the court, and intimate the fact to the party.

CHAPTER XXIV—COMPENSATION OTHERWISE THAN IN CASH.

Ordinarily all compensation under the Act is payable in cash and in every case the award should express the compensation in money. Paragraphs 23 to 29 of Board's Standing Order No. 90 detail the rules to be observed for settling compensation otherwise than in cash. These rules should be carefully observed by acquisition officers. As in no other portion of land acquisition work are mistakes so frequently committed by acquiring officers as in this, it is worthwhile to recapitulate the rules on the subject.

2. Compensation for ryotwari or zamindari land, for enfranchised inams and for unenfranchised personal inams should as a rule be paid only in money. Under section 31 (4) of the Act it is entirely optional on the part of the Collector to grant land in exchange in such cases; and the Government desire that the Collector should exercise this power only in exceptional cases. If the Collector decides to grant land in exchange, the grant of land should always be made on ryotwari tenure; and the

District Collector should sanction the grant. If land is held on ryotwari tenure by a religious or charitable institution, the Collector may, in his discretion decide that it is a fit case for the grant of other land in exchange provided that such land is at the disposal of the Government (G.O. Ms. No. 215, dated 2nd February 1934.) If land is not or cannot be granted in exchange for such land, the Collector should [under section 31 (2)] deposit in court the amount awarded. The court may then order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land acquired, and, till such purchase is effected, in the purchase of approved securities [section 32 (1)].

3. *Compensation for unenfranchised religious or charitable service inams.*—Two classes of cases have to be distinguished—

(*a*) *Inams which, as inams, are over* 60 *years old at the time of acquisition.*—The kudivaram interest in the land has to be paid for in cash. The amount should be paid to the person enjoying the inam, if he is competent to alienate the land and receive the compensation. If he is not competent, the amount should, under section 31 (2) be deposited in the court which will deal with the money as provided in section 32 (1). Not only must compensation be paid in cash for this kudivaram interest but also the assignment to the inamdar of the Government revenue on the land which constitutes the inam, must be continued to him. This is done by the payment of a beriz deduction or fixed remission equal in amount to the amount of Government revenue, guaranteed to the inamdar at the time of settlement of the inam or, if it has not been settled, at the time of its creation.

(*b*) *Inams which are less than* 60 *years old at the time of their acquisition and unenfranchised village service and village artisan inams.*—If the Collector is satisfied that the original grant of the inam included both the land and the assessment, he should select a piece of land at the disposal of the Government, which is of the value of the sum awarded as compensation, and grant it to the inamdar on the same inam tenure. If there is no land at the disposal of the Government which he can so grant in exchange a procedure similar to that indicated in (*a*) above should ordinarily be followed, i.e., an annual payment of a beriz deduction or a grant of fixed remission equal in amount to the assessment foregone should be made and a single payment in cash for the kudivaram interest in the land should be made. But if the value of the land taken up is considerable, private land may be acquired and granted in exchange on inam tenure.

4. It is thus seen that, under the instructions of the Government, compensation by the grant of other land in exchange is obligatory only in the cases of unenfranchised religious and charitable service inams less than 60 years old and of unenfranchised village service and artisan inams, if it is clear that the land and the assessment constitute the inam. In other cases such a grant is discretionary on the part of the Collector.

5. In the matter of the payment of compensation otherwise than in cash, section 31 of the Act distinguishes between a person having a limited interest in the land acquired and a person competent to contract in respect of the land acquired. In the former case, the sanction of the Local Government is necessary under section 31 (3), while in the latter case under section 31 (4) the Collector may himself enter into any arrangement for payment of the compensation otherwise than in cash. In the former case the Collector is not competent to sanction the arrangement himself, but should submit his proposal to the Government through the Board of Revenue in the form prescribed. In the latter case, when the compensation is to take the form of an annual payment of a beriz deduction or the grant of a fixed remission equal in amount to the assessment payable on the land taken up, the District Collector will himself sanction the proposal in cases in which the value of the inam acquired does not exceed Rs. 100 per annum and submit a copy of his orders to the Board. Where the value of the inam acquired exceeds Rs. 100 per annum he should submit the proposals to the Board for sanction. The sanction of the Government is necessary in cases in which the land granted in exchange is to be held on inam tenure.

(G.O. Ms. No. 320, Revenue, dated 11th February 1941.)

6. Acquiring officers should be careful not to order in their award the grant of land in exchange. Where the circumstances of the case are such as to render the grant of land in exchange necessary or desirable, they should submit proposals to that effect to the Collector of the district separately. Except in the following two cases, the grant should always be on ryotwari tenure. In the case of unenfranchised religious and charitable inams which are less than 60 years old and in the case of unenfranchised village service and artisan inams, if it is clear that the land and the assessment constitute the inam, the land granted in exchange will be held on the same inam tenure. But it is the Government who should make the actual grant in such cases.

CHAPTER XXV—WHEN A CLAIMANT MAY FILE A REGULAR CIVIL SUIT.

It may happen that the compensation awarded under the Act is not paid to the person lawfully entitled to it. The person aggrieved in such a case has however a remedy under the Act.

2. If he represented his claims to the Collector and the compensation was nevertheless not awarded to him, or was not properly apportioned, he may ask for a reference to the court within the time prescribed under section 18 (2). If on doing so, he failed to establish his claim in the court, he cannot again reopen the question by a suit in the civil court.

In 7 Calcutta, 388, Their Lordships of the Privy Council observed :— "The third proviso to section 31 (2) applies only to persons whose rights have not been adjudicated upon and it has not the effect, which it would certainly not be reasonable to attribute to it, of permitting a person, whose claim has been adjudicated upon in the manner pointed out by the Act to have that claim reopened and again heard in another suit . .... It is necessary for the Government or a company, entitled to take property compulsorily, to deal with those who are in possession or ostensibly the owners; but it may happen, and frequently does happen, that the real owners, possibly being infants or persons under disability, do not appear and are not dealt with in first instance and therefore a provision of this sort is necessary for enabling parties who have a real title to obtain the compensation money."

3 It thus appears that persons, who are not parties in land acquisition proceedings are not debarred from instituting suits for apportionment in a civil court. In the case of persons who represented their claims before the Collector but did not seek a reference to the court under section 18, the Calcutta High Court extended the Privy Council decision above referred to and held that in such a case as there had been no adjudication of the rights of the claimants *inter se*, a claimant who appeared before the Collector when the award was made, but yet did not apply for a reference under section 18, could maintain a civil suit against any person who might have received the whole or part of the compensation awarded. This decision was dissented from in a later decision of the Calcutta High Court and it was held that a person, under the above circumstances, had no right of suit in the ordinary civil courts. The claimant's remedy when dissatisfied with the Collector's award is to apply for a reference under section 18. "The Land Acquisition Act creates a special jurisdiction and provides a special remedy. And ordinarily when jurisdiction has been conferred upon a special court for the investigation of matters which may possibly be in controversy, such jurisdiction is exclusive and the ordinary jurisdiction of the civil court is ousted". This later decision represents the correct view of the matter.

4. The position therefore is as follows. If a person interested in the land acquired has any objection to the measurements made by the Collector or to the amount of compensation awarded by him, he *must* obtain a reference to the court and cannot litigate the matter by a suit in the ordinary courts. Even if the objection relates to the *locus standi* of a claimant or to a question of apportionment amongst the different claimants, the matter must be investigated only upon a reference to the court if the claimant was served with a notice under section 9. When, after a reference has been made to the court, the proceedings are dismissed for want of prosecution without adjudication on the merits, a suit is not maintainable for the trial of the question involved in the reference. If the real owner was not served with a notice under section 9, or if being an infant or labouring under a legal disability, he did

not appear and make his claim before the Collector, he may then institute a civil suit against the persons who took payment of the compensation due to him.

5. When the question of title or apportionment is referred to the court under section 18 or section 30 the whole amount of the compensation must be deposited in the court by the Collector. If he fails to do so and makes payment to the wrong party before the reference to the court has been made, the Government will be liable to pay the amount to the party whom the court adjudicates to be entitled to it. It will not be open to the Government to urge that, under the third proviso to section 31 (2), the party entitled to the amount should file a suit to recover it from the person to whom it was wrongfully paid by the Collector. The Government must find the money to satisfy the order of the court concerning apportionment and afterwards themselves file a suit to recover the money from the person to whom a wrong payment has been made. It will be different if the person entitled to compensation comes by way of a suit to a civil court. Government will not be a party to it and the suit will lie only against the person who took wrongful payment. In such a case the third proviso to section 31 (2) will come into operation. Costs awarded in such a suit can, in no event, be recovered from the Government.

CHAPTER XXVI—PAYMENT OF INTEREST ON THE COMPENSATION AWARDED.

Section 34 of the Act lays down that when the amount of compensation is not paid or deposited in the court on or before taking possession of the land the Collector shall pay the amount awarded with interest thereon from the time of taking possession until it shall have been paid or deposited, at the rate of 6 per cent per annum in cases of acquisition of land for the purpose of Central Government and at the rate of 4 per cent per annum for the acquisition of land for purposes of the State Government. Although under section 16 possession may be taken as soon as the award has been passed, ordinarily the Collector should not take possession until the compensation has been paid or the amount has been deposited in the court.

Act XII of 1953.

B.P. Mis. No. 1005, dated 2nd September 1953.)

(Govt. Memo. No 3695–C/50–2, Revenue, dated 6th August 1953.)

(G.O. Ms. 158, Revenue, dated 17th January 1958.)

(G.O. Ms. No. 833, Revenue, dated 18th March 1959.)

2. Under the Act possession may be taken before the compensation is paid or deposited if the provisions of section 17 (1) or (2) have been applied. In this case the payment of interest is unavoidable. It is therefore incumbent on the Collector to complete the enquiry and pass

the award under section 11 as soon as possible. All correspondence in connection with the acquisition should in such a case be marked 'Urgent —Interest on the cost of acquisition is running'. The interest awarded should be included in the award passed under section 11.

In cases in which no compensation in money is paid but it is proposed to compensate the owner by the grant of other land or in some other way as is contemplated in section 31 (3) and (4) of the Act, there is usually an interval of time between the date of taking possession and the date when the land is granted in exchange. In such cases, a stipulation should be made in any agreement under section 31 (3) that interest shall not be claimed under section 34 unless there has been undue delay for which Government are to blame in the grant of the compensation agreed upon under section 31 (3).

3. Independently of the Land Acquisition Act, it may become necessary to take possession of a land urgently or to enter upon it for one of the purposes mentioned in section 4 (2) of the Act even before the formal proceedings are commenced under that Act. (G.O. Ms. No. 2439, Revenue, dated 20th August 1953.) The Officer entering upon the land should record a statement from the owner agreeing to his entry. When he takes possession he should if possible obtain a further statement that the owner will not claim interest from the date of taking possession. In cases in which the owner declines to give such further statement, interest on the amount of compensation should be included in the award. In cases where possession is taken after the award is passed, interest will have to be paid if the delay in paying the compensation or dealing with it in accordance with the rules was not due to the negligence of the party.

(G.O. Ms. No. 2682, Revenue, dated 14th December 1936.)

CHAPTER XXVII—TEMPORARY OCCUPATION OF LAND.

Steps may be taken under the Act to procure the temporary occupation of land either for a public purpose or for a company, if it is required for a period not exceeding three years. If the land is required for more than three years, it must be permanently acquired. If at the end of the three years, it is found that the land is required for temporary occupation for a further period and the owner has no objection, the occupation may continue on terms agreed upon between the owner and the Government. Only waste or arable land can be acquired for such temporary occupation; buildings cannot be so acquired. No notification under section 4 (1) or section 6 need be published. A direction of the State Government to procure the use and occupation of the land is all that is necessary. On the receipt of such a direction the Collector should issue written notices to the persons interested that it is proposed to use the land for the particular purpose for which it is required and

should give them a hearing regarding the question of the amount of compensation. No award need be passed under section **11**. The amount of compensation should be settled by mutual written agreement between the Collector and the persons interested. The solatium of 15 per cent of the value of the concession acquired is not to be paid. The most convenient arrangement for temporary occupation is usually on lease. If the owners demand a higher compensation than the Collector is prepared to allow, and if no agreement can be arrived at, the Collector should refer the dispute for the decision of the court. No application by the person interested demanding a reference is necessary.

CHAPTER XXVIII.—ACQUISITION FOR COMPANIES.

Land may be acquired for a company when it is needed for the construction of some work which is likely to prove useful to the public, or for the erection of dwelling houses for workmen employed by the company or for the provision of amenities directly connected therewith. As in the case of ordinary acquisition under Part II of the Act, the proceedings must be initiated by the issue of a notification under section 4 (1) followed by an enquiry under section 5-A. In this enquiry it will be open to the objector to urge, (1) that the work is not likely to be useful to the public, (2) that the particular land notified is not the best adapted to the purpose intended, or (3) that its area is greater than is actually required for the purpose. Usually the same officer authorized to perform the functions of a Collector under section 5-A of the Act is also empowered to make the enquiry under section 40 (2) and two separate enquiries need not be held under these sections. It is only in urgent cases in which the enquiry under section 5-A is dispensed with that enquiry under section 40 (2) will be obligatory. On considering the report of the Collector and satisfying themselves on the points noted above, the State Government should call upon the company to enter into the agreement mentioned in section 41. Section 40 constitutes the Government who are the custodians of the public interests, the sole judge of the facts mentioned therein, viz., whether the purpose of the acquisition is to obtain land for the erection of dwelling houses for workmen employed by the company or for the provision of amenities directly connected therewith or whether the land is required for the construction of some work and whether that work is likely to prove useful to the public (G.O. Ms. No. 985, dated 17th May 1934). The civil court is not competent to question the validity of the proceedings under this section; nor can it question the efficiency of the enquiry made by the Collector or his qualification for making it. The Government is the sole judge of these matters (30 Calcutta, 36).

2. Any society may get the benefit of these sections, if it is registered as a company within the meaning of that word in section 3 (1) (i) of the Companies Act, (Central Act I of 1956). A society registered under the

Societies' Registration Act, 1860 (Central Act XXI of 1860) and a registered society within the meaning of the Madras Co-operative Societies Act, 1932 (Madras Act VI of 1932), Multi-Unit Co-operative Societies Act, 1942 (Central Act VI of 1942) are both companies within the meaning of the word 'company'.

(G.O. Ms. No. 833, Revenue, dated 18th March 1959.)

3. An industrial concern, owned by an individual or by an association of individuals and desiring to acquire land for the erection of dwelling houses for workmen employed by it or for the provision of amenities directly connected therewith, is so far as the acquisition of such land is concerned, deemed to be a company if it ordinarily employs not less than one hundred workmen.

(G.O. Ms. No. 985, Revenue, dated 17th May 1934.)

CHAPTER XXIX—WITHDRAWAL FROM ACQUISITION.

Government are at liberty to withdraw from the acquisition of any land which does not come under the proviso to section 36 of the Act and of which possession has not been taken even though the award may have been actually passed. The withdrawal should be notified in the official gazette in the same manner as the original notification under section 4 or 6 of the Act was notified as the case may be.

2. In the following cases withdrawal is usually ordered :—

(1) If the amount of compensation to be paid prove to be much larger than that anticipated. This cannot be determined until the award has been fully framed and considered.

(2) If the owner insists under section 49 (1) that the whole of his house or building or that the lands which on a reference made to the court is declared to form part of his house or building which is not required for the purpose of the acquisition should be acquired, and it is decided that the cost involved is too high. If the acquisition is for a local authority or company the Collector should in such a case consult it to enable it to decide whether to exclude the whole of such house or building.

(3) When there are grave defects in the award which cannot be cured, except by withdrawal from the acquisition.

(4) If, on a consideration of the objections raised n the course of the enquiry under section 5-A of the Act and the Collector's report thereon, the Government decide not to proceed with the acquisition.

When the area acquired or required is less than the area notified withdrawal is unnecessary provided the boundaries as notified hold good in respect of the reduced area.

3. Government may withdraw even after payment of the compnesation provided that possession has not been taken. In such a case the amount already paid will have to be recovered by a civil suit, if it cannot be recovered by private arrangement.

4. It must be remembered that withdrawal entails a liability for the payment of compensation for any damage which the owner may have suffered in consequence of the notice to acquire or of any proceedings under the Act. If the owner is not satisfied with the amount of compensation for the damages awarded by the Collector, he may apply for a reference to the court and such reference must be made.

5. In a certain case land required for quarrying was entered upon under an agreement with the owner and in anticipation of the acquisition under the Act. After the publication of the draft declaration and the issue of notices under section 9 it was found that the land was very much more costly than it was originally estimated to be. On a question being raised whether the Government coud wlithdraw from the acquisition after paying the owner damages for the quarrying done on about an acre of the land, the Government adopted the view—

(1) that possession taken by the Government before the declaration under section 6 had been published was not possession taken under the Act and that Government could therefore withdraw from the acquisition;

(2) that the consent obtained from the owner on the assumption that the land would be acquired under the Act and compensation would be awarded amounted to a contract between the owner and the Collector as the agent of the Government that the land would be purchased by the Government; and

(3) that the contract was not a concluded contract as the sale price had not been fixed and there was no provision under the Act by which the owner could compel the fixing of the price.

CHAPTER XXX—DUTIES OF THE DISTRICT COLLECTOR.

Throughout the land acquisition proceedings the District Collector must exercise an efficient executive control over the work of the acquiring officer. The primary valuation statement should be scrutinized in the Collector's office in order to ensure that the valuation proposed is fair. (G.O. Ms. No. 1778, Revenue, dated 24th August 1942.) Board's Standing Order No. 90 (16) details the ways in which he should exercise this control in respect of the awards to be passed by the acquiring officers. The District Collector's control and responsibility do not cease when there is a special officer for the acquisition. He should carefully scrutinize the special officer's awards and see that they are based on

proper data and are not excessive. His responsibility is the same whether the funds for the acquisition are provided by a department of Government, by a local body, or by a company. Even when the acquisition is on behalf of a railway the instructions laid down in Board's Standing Order No. 90 (16) should be fully observed. Rule 4 of section 1 of the Revised Land Acquisition Rules for railways printed in G.O. No. 1959, Revenue, dated 14th August 1920, provides that the procedure to be followed in the case of an acquisition for railways should be in conformity with the instructions prescribed by each State Government. The District Collector must therefore in such a case exercise the powers vested in him under Board's Standing Order No. 90 (16) and maintain full executive control over the work of the acquiring officer.

2. The District Collector has also other functions to discharge. Under section 5 he has to hear disputes regarding the sufficiency of the amount paid or tendered for damages under section 4 (2), and his decision in the matter is final. He cannot delegate his powers to any other officer, not even to a Collector apointed under the Act.

3. Under Board's Standing Order No. 90 (23) (vii) proposals for the settlement of compensation otherwise than in cash may be made by the acquiring officer, but the terms of such settlement are subject to approval and revision by the District Collector. The Government, however, are the final authority to sanction the proposals except when the settlement is to be made with a person competent to contract in respect of the land acquired *and* the Collector decides to grant in exchange land on ryotwari tenure, or when the compensation is to take the form of an annual payment of a beriz deduction or the grant of a fixed remission equal in amount to the assessment payable on the land taken up.

(G.O. Ms. No. 320, Revenue, dated 11th February 1941.)

4. The District Collector is responsible for the proper supervision and control of all proceedings arising in the civil courts out of action taken under the Land Acquisition Act. He should personally watch the progress of all such proceedings and if it is found that any are not conducted properly by the Government Pleader, he should draw the Government Pleader's attention to the neglect. Instances of badly conducted cases should be reported by the District Collector to Government (G.O. Ms. No. 2033, dated 26th November 1926). On receipt of copies of judgments and decrees, they should be promptly scrutinized by the District Collector, and steps should be taken to get them amended if this is necessary (e.g., if 15 per cent has wrongly been allowed by the Court on compensation for damages): and prompt arrangements should be made for the deposit in court of any excess compensation which may have been decreed so as to reduce the interest charges to a minimum. Prompt steps should also be taken for the recovery of any costs which may have been allowed—if necessary by resort to execution proceedings through the agency of the court.

CHAPTER XXXI—ACQUISITION FOR RAILWAYS.

The acquisition of lands for the railways is governed by the orders in Board's Standing Order Nos. 90 and 91 and the Revised Land Acquisition Rules which have been issued by the Government of India. These rules are printed in the Appendix.

(G.O. Ms. No. 1763, Revenue, dated 28th August 1937.)

2. The procedure to be followed in acquiring the lands is mainly the same as in the case of ordinary acquisition under Part II of the Act. A notification under section 4 of the Act need not be published when preliminary surveys only have to be carried out by the railways. No notification under section 4 of the Act should therefore be sent up for publication until the alignment has been decided on and the land actually required can be more or less precisely specified. If the Government are satisfied that in the circumstances of the case acquisition is urgent, they will at the time of the publication of the notification under section 4 of the Act dispense with the enquiry under section 5-A in respect of the waste or arable lands including lands on which scattered trees or temporary structures such as huts, pandals or sheds exist. (G.O. Mis. No. 1573, Revenue, dated 17th June 1949.) The provisions of section 17 (4) of the Act will not ordinarily be applied at any later stage.

3. The cost of the land acquired should be debited to the Central Government or the Capital account of the railway according as the railway is entitled to receive land free of cost or not. An abstract of the orders relating to such adjustment is given in the appendix. According to the orders of the Central Government the capitalized value of the abatement of the existing land revenue should not in future be debited to the Capital account of the railway or the Central Government.

(G.O. Ms. No. 1763, Revenue, dated 28th August 1937.)

4. Under rule 24 of the Revised Land Acquisition Rules the land acquisition officer has to consult the railway administration if the awards are likely to exceed the original estimate of the cost of acquisition by more than 10 per cent or Rs. 10,000. If the award as finally settled after objections have been heard in the course of the proceedings exceeds by more than 20 per cent the original estimate of the cost of the acquisition or if the evidence as to the value is conflicting and such as to indicate a reasonable probability that the civil court will award a sum exceeding that estimate, the land acquisition officer should defer the award and inform the railway administration concerned of the facts. But such consultation with the Railway authorities does not obviate the necessity of obtaining the previous approval of the Collector as required under Board's Standing Order No. 90 (16) for awards which are 10 per cent over the preliminary valuation or relieve the acquisition officer's responsibility for fixing the value of the land at a reasonable and fair amount in accordance with the instructions given in the Act and Board's Standing Order No. 90. In one case of acquisition, it was contended that, under the

Revised Land Acquisition Rules, the Railway officers were finally responsible for the price paid for the land and that the acquisition officer was merely one deputed to act as their assistant or as an arbitrator between them and the claimants. But the Government held that this was not the position contemplated by the Land Acquisition Act and that it was the acquiring officer who was responsible for fixing the value of the land and that he was bound to fix it in accordance with the special instructions given in the Act and the rules.

(G.O. No. 1755, Revenue, dated 11th November 1925.)

CHAPTER XXXII—PERSONS WHO ARE NOT COMPETENT TO ALIENATE.

Under proviso (iv) to section 3 (*g*) of the Act a person competent to alienate the land and receive and give a good discharge for the purchase money on a voluntary sale is competent to receive the compensation. If there be no person competent to alienate the land, under section 31 (2), the Collector should deposit the amount of compensation in the Court to which a reference under section 18 would be submitted. Before the Collector makes payment of the compensation he should consider carefully whether the person in whose name the award has been passed is competent to alienate the land. This is not a simple matter to decide and the facts of each case must be considered on their merits. As personal law governs the bulk of the Indians (Hindus and Muhammadans), the provisions of the Hindu law and Muhammadan law will have to be applied, and even when they apply any modification of the personal law by Statute law should be taken into account. Where these laws do not apply, Statute law will come into play.

2. *Under Hindu Law.*—(1) A Hindu male, if he does not form a member of a joint family, can alienate without restriction the immovable properties belonging to him.

(2) If he does form a member of a joint family, he can alienate his self-acquired property without any restriction.

(3) In the case of properties belonging to a joint family, the manager of the family can alienate the same for any purpose, provided the other co-parceners are majors and agree to the alienation; but unless all the members of the joint family who have put in claims in response to the notice issued by the acquiring officer in accordance with the provisions of the Act agree as to the apportionment of the amount of compensation, the acquiring officer should deposit the amount of the compensation in the court.

(4) The manager acting alone and without the consent of the other co-parceners may alienate family property only for family necessity or

for its benefit. The power of alienation possessed by the following classes of persons is similarly limited :—

(a) a widow managing property inherited by her minor son;
(b) the guardian of minor's estate;
(c) the manager of a religious or charitable endowment; and
(d) the manager of the estate of a lunatic.

(5) A father is entitled to alienate the joint family property of himself and his sons to satisfy antecedent debts contracted by him for a purpose which is neither illegal nor immoral. In other respects he possesses the same power as the manager. Similarly in the case of property belonging to a joint family governed by the Alayasanthanam law the compensation may be paid to the ejaman of the family. In the case of acquisition of joint family property of persons governed by the Mitakshara system standing in the name of managing member of the family, compensation may be paid to the managing member as the head of the family. Where there are undisputed legal guardians of minors there is no objection to the payment of compensation awarded under the Land Acquisition Act to such legal guardians on behalf of the minors.

In cases (4) and (5) the compensation should invariably be deposited in court. In the case of property, belonging to a tarwad to which the Marumakkatayam law applied, the Madras High Court held that the tarwad had power to alienate the land and that the compensation should be paid to the Karnavan and should not be deposited in court.

(26, Madras 287.)

(6) A Jain widow has absolute power of disposal over the self-acquired property of her husband inherited by her. Compensations may therefore be paid to her if such property is acquired from her.

3. *Under the Muhammadan law.*—(1) Any Muhammadan, male or female, can alienate his or her properties. But in the case of a female, care should be taken to see that she is not mere benamidar. If she is a benamidar, the compensation should not be paid to her but should be deposited in court.

(2) If the property is immovable and belongs to a minor, the legal guardian of the minor can alienate it under certain special circumstances only. The compensation for the land of a minor should therefore be deposited in court.

4. *Under Statute Law.*—Under section 307 of the Indian Succession Act (39 of 1925), an executor or administrator has power to dispose of the property of a deceased person vested in him under section 211 in such manner as he may think fit.

If the deceased is a Hindu, Muhammadan, Buddist, Sikh, Jain or an exempted person (as notified under section 3 (1) of the Indian Succession

Act), this general power of alienation vested in the executor is subject to the following restrictions :—

(*a*) If no probate has been obtained he is subject to the restrictions on alienation imposed by the will appointing him;

(*b*) If probate has been obtained, the Court can order the executor to dispose of any immovable property in a manner permitted by the court notwithstanding any restrictions in the will. In this case the compensation awarded may be paid to the executor.

NOTE — Probate is necessary for all wills executed within the City of Madras; if probate is not taken an executor under the will can not act.

(*c*) An Administrator cannot without previously obtaining the orders of the court which granted the letters of administration, alienate the properties vested in him. If he obtains the order of the court, the compensation awarded may be paid to him.

5. Under sections 28 and 29 of the Guardian and Wards Act, 1890—

(1) If a guardian has been appointed by a will or other instrument his power to alienate the property of the ward is subject to any restrictions which may have been imposed by the instrument. If no restrictions have been imposed, the compensation awarded may be paid to the guardian.

(2) If he has been declared to be a guardian under this Act, he may alienate the immovable property of the ward on obtaining an order from the court which made the declaration permitting him to do so. The compensation awarded may then be paid to him.

(3) If the guardian appointed by a will or other instrument containing a restriction on alienation wants to alienate the immovable property of the ward, he must get himself declared a guardian under the Act and then obtain the order of the court permitting the alienation. If the court makes the order the compensation may be paid to him.

6. The Official Assignee under the Presidency Town Insolvency Act, 1909, and the Official Receiver under the Provincial Insolvency Act, 1920, are competent to alienate all or any part of the property of the insolvent or intestate vesting in them. The compensation awarded in the case of such property may be paid to the Official Assignee, or Official Receiver. In the case of an estate managed by a Receiver appointed by a court, the property is in *custodia legis* and the compensation awarded should be paid to the Court which appointed the Receiver.

7. *Impartible Estates.*—An estate is impartible if it is by law or custom incapable of division into one or more parts so as to confer upon the holders thereof rights equal to those possessed by the holder of the undivided estate. But an impartible estate is not *ipso facto* inalienable. On the other hand the Privy Council has laid down the law to be that the holder of an impartible estate is its complete and absolute owner,

competent to dispose of it in any manner he pleases either by deed or will. But the Madras Impartible Estates Act, 1904, has imposed restrictions on the alienation of an impartible estate by providing that the proprietor shall be incapable of alienating it or any part of it beyond his own lifetime unless the alienation is for necessary and justifiable purposes. The proprietor of an impartible estate falling under the Madras Impartible Estates Act is expressly authorised to grant sites for public charitable and public religious institutions but cannot make any other alienation so as to confer an absolute title on the alienee. The compensation in such cases may be apportionable among persons being members of the family in terms of the provisions of the Estates (Abolition and Conversion into Ryotwari) Act, 1948 (Madras Act XXVI of 1948). The compensation for the melwaram interest in land acquired in such an estate should not be paid to the proprietor but should be deposited in court, unless the acquisition is for a public charitable or public religious purpose. In the excepted case the compensation may be paid to him. The proprietors of impartible estates not falling under the Madras Impartible Estates Act have full powers of alienation. In their case the compensation for land acquired may be paid to them and need not be deposited in court.

(G.O. Ms. No. 3007, Revenue, dated 16th October 1959.)

CHAPTER XXXIII—CORRESPONDENCE REGARDING LAND ACQUISITION.

The correspondence in the office of the Land Acquisition Officer is divided into two stages of which the first ends with the report submitting the draft declaration under section 6 of the Act to the Government and the second begins with opening a fresh current as soon as the Government Order directing the publication of this notification is recieved. It is not desirable to close the file with an 'L' disposal at the time when the notification under section 4 (1) is submitted to the Government.

As soon as the Government Order directing the publication of the notification under section 6 is received, a fresh current should be opened and kept pending until the last stage of the land acquisition proceedings is reached. This current should not be closed till the case has been finally disposed of, i.e., till the compensation has been paid or other lands have been granted in exchange and the procedure prescribed in paragraph 19 (ii) of Board's Standing Order No. 90 concerning the record of tranasactions and corrections in the accounts, has been followed to end.

2. To every file of land acquisition papers should be attached a check memorandum, the form of which is given in the appendix. (B.P. No. 23, Revenue Settlement, Survey, Land Revenue and Agriculture, dated 4th February 1918.) It is designed to enable acquisition officers to check

the procedure involved in their work before its final disposal, specially in connexion with the subdivision of the portions of the fields acquired and the incorporation of the changes in the accounts.

3. Besides the clerk's personal register of papers in which all land acquisition papers must be entered, a special register of papers relating to land acquisition has been prescribed (vide Appendix XII, form 19). This register should be maintained by all officers who do land acquisition work.

4. By a reference to this special register and to the clerk's personal register, inspecting officers will be able readily to detect delays in the work connected with land acquisitions; similarly the land acquisition officer himself will be able to watch the progress of the work in his own office. No register, however, can ever replace the vigilant check which the Divisional Officer should exercise over the execution of this work. It is the duty of the head of the office to punish a clerk who delays the checking of a draft declaration. A Tahsildar or Deputy Tahsildar who fails in similar circumstances to report a Revenue Inspector for punishment for undue delay on the Revenue Inspector's part, must expect himself to be punished for failing to check the delay and, if the case is one that he could have easily dealt with personally, he must expect the consequences to be serious. Similarly a Revenue Divisional Officer who does not punish the Revenue Inspector must expect himself to share the blame for the delay. Vigilance on the part of the Revenue Divisional Officer and the Tahsildar to prevent unnecessary delay or unnecessary references is essential. Both must keep in touch with all land acquisition papers and know exactly where the delay is and whether there is a sufficient reason for it. The moment they discover unjustifiable delay they must punish the subordinates responsible. (B.P. Mis. No. 404, dated 24th February 1925.)

5. It is not desirable to treat in the Collector's office the Revenue Divisional Officer's communication enclosing the notification under section 4 (1) as "X" (i.e., unregistered) paper. According to paragraph 8 (1) of Board's Standing Order No. 90, every department applying for land other than the Revenue Department has to make the application to the Revenue Divisional Officer and send a copy of it to the District Collector. The object of sending a copy of the application to the District Collector is to enable him to check delay on the part of the Revenue Divisional Officer in taking proceedings, especially in submitting the notification under section 4 (1), as it is very important that this notifictaion should issue as early as possible. It is therefore necessary that the copy of the application for land received by the District Collector should be registered in the subject clerk's personal register and the receipt of the draft notifiaction duly watched for. On receipt, the notification should be treated as an old case and put into the open current mentioned above. In the case of land required by the Revenue Department there should be an open file in the Collector's office awaiting the notification under section 4 (1).

CHAPTER XXXIV—MISCELLANEOUS.

The following documents received or furnished in the course of proceedings before the Collector are exempt from Court-fees :—

(1) Applications for compensation. Item (xviii) of section 72 of the Madras Court Fees and Suits Valuation Act, 1955 (Act XIV of 1955).

(2) Awards or agreements and copies of them furnished to persons claiming under them. (Section 51 of the Land Acquisition Act.)

(3) Application under section 18 of the Land Acquisition Act.

All other documents are chargeable with Court-fees.

2. A grant of land in exchange for land which has been acquired under the Act need not be registered as it is a Government grant.

3. In all cases of acquisition in which it has been found necessary to appoint a special officer for the purpose, that officer should, as soon as the lands have been acquired, submit a completion report to the Government through the District Collector concerned and the Board of Revenue. The report should contain a general description of the operations and activities of the staff, details of the staff employed with particular reference to the period of employment and the Government Orders sanctioning their employment, the percentage of the cost of the staff to the cost of the acquisition, the procedure followed in valuing the land, the number of references to court, points of local or special interest, if any, items of work left outstanding by the special staff and arrangements made for the custody of the records connected with the acquisition.

H.C., S.C.'s Office,
Karur.
17.5.62

PART IV
APPENDICES.

APPENDICES.

	Page
APPENDIX I.—(Order 90, paragraph 9) Rules framed under Section 55 (1) of the Land Acquisition Act.	153
APPENDIX II.—(Order 90, paragraph 20) Rules for the payment of compensation for land taken up under the Land Acquisition Act, I of 1894.	154
APPENDIX III.—(Order 90, paragraph 31-A) Memorandum of principles to be followed in regard to the asssesment of compensation for land required in British India and the Indian States for irrigation, navigation, embankment, buildings, roads, bridges, water-supply schemes and drainage works and works connected with or subsidiary to them undertaken by a provincial Government or local administration in British India and *vice-versa*.	166
APPENDIX IV.—(Order 90, paragraph 31-B) Rules and instructions in connection with advances for the acquisition of house-sites in rural areas for the communities eligible for the ameliorative measures undertaken by the Harijan Welfare Department and for landless labourers.	168
Annexure I. Form of agreement	173
Annexure II. Form of order of assignment	175
APPENDIX V.—(Order 91, paragraph 1) Revised Land Acquisition Rules ..	182
Preliminary—	
Section I—General instructions	183
Do. II—Procedure for acquisition preliminary to putting the Land. Acquisition Act into force.	186
Do. III—Procedure after the Act is put into force	190
Do. IV—Custody of land	192
Do. V—Management of land	193
Do. VI—Relinquishment of land	195
Do. VII—Amount of land to be acquired	198
Do. VIII—General arrangement side widths, etc.	199
Do. IX—Land Plans and schedules	200
Do. X—Adjustments of charges, establishment and capitalized abatement of land revenue.	203
Do, XI—Acquisition of land for British railways traversing Indian States and of land in British territory for Indian State railways.	204
Do. XII—Miscellaneous	207

Sub-Enclosures.

APPENDIX A.—Schedule of land widths to be taken up for a single line in bank 5 feet 6 inches gauge, etc.,	210
APPENDIX B.—Form of schedule of land acquisition	222
APPENDIX C.—Acquisition of State land in charge of the Millitary Authorities.	226
Annexure.—Extracts from the Indian Works of Defence Act VII of 1903, as amended by Act V of 1909.	228
APPENDIX D.—Licence form for use of railway land	230
APPENDIX E. } APPENDIX F. } *Deleted.*	
APPENDIX G.—Revision of the rules in the various provinces under the Land Acquisition Act in order to subject the Collector in awarding compensation to the orders of his departmental superiors..	232
APPENDIX H.—Private negotiations with owners of land to be acquired for a public purpose.	233
APPENDIX I. } APPENDIX J. } *Deleted.*	

PAGE

APPENDIX K.—Preparation of estimates of the cost of land required for railway or other large public projects. 234

APPENDIX L.—Secretary of State's Rules as promulgated in Finance Department Resolution No. D. 3428A of 10th December 1925 and Notes thereto regulating the transfer of State Land) and Buildings between the Government of India and the Local Government of any Governor's province. 236

APPENDIX M.—Conditions for grant of immovable public property to local authorities for public purposes. 239

APPENDIX N.—Government of India Resolution concerning the disposal of lands compulsorily acquired under the Land Acquisition Act (1 of 1894) for some public purpose. but no longer required for such purpose. 240

APPENDIX O.—Circular from Government of India, No. 11, 22nd Dec. 1908. 243

APPENDIX VI.—[Order 91, paragraph 4 (5)]—Rules laid down in 1861 for the acquisition of land required for Railway purposes by the old guaranteed companies. 245

APPENDIX VII.—[Order 90, paragraph 13 (iii)]—Rules for the demarcation of lands acquired for the Public Works Departmen 247

APPENDIX VIII.—[Order 90, paragraph (13) (ii) (b)]—Rules for the guidance of special officers engaged in the survey of lands acquired for railways. 248

APPEEDIX IX.—(Order 90)—The Land Acquisition (Mines) Act being Act No. XVIII of 1885. 251

APPENDIX X.—(Order 90)—Madras Act VII of 1920 (Chapter VII—Land Acquisition). 255

APPENDIX XI.—(Order 90)—The Indian Railways Act (Act IX of 1890) (Chapter III-Construction and maintenance ot works). 257

APPENDIX XII.—(Order 90, paragraphs 6 to 8 and 10 to 12)—Forms— .. 260

Form 1.—Form of requisition 260

Form 2-A.—Form of notification to be issued under section 4 of Act I of 1894. as amended by Act XXXVIII of 1923. 260

Form 2-B.—Acquisition of land for the purpose of the Union Government. 261

Form 3.—Notice under section 5A of the Land Acquisition Act I of 1894, as amended by the Land Acquisition Amendment Act XXXVIII of 1923. 262

Form 4.—Preliminary valuation statement 263

Form 5-A.—Acquisition for purposes of the State 263

Form 5-B.—Acquisition for the purposes of the Union 264

Form 5-C.—Preamble to declaration under section 6 of the Land Acquisition Act in respect of acquisition of lands for a company or a local authority. 265

Form 6.—Notice under sections 9 (1) and 10 of the Land Acquisition Act I of 1894 (India). 266

Form 7.—Notice under sections 9 (3) and 10 of the Land Acquisition Act I of 1894 (India). 267

Form 8.—Form of award 268

Form 9.—Notice of award under section 12 (2) of Act I of 1894 269

Form 10.—Notice under Act I of 1894 270

Form 11.—Form of letter from the Land Acquisition Officer to the department concerned to receive possession of the land 270

Form 12.—Statement of land required to be temporarily occupied .. 271

Form 13.—Return of lands acquired under the Land Acquisition Act to be forwarded to the Registration Department. 272

Form 14.—Statement of compensation in other forms than money for land taken up for public purposes. 273

Form 15.—Return of lands granted in exchange 274

	PAGE
Form 16.—Schedule under section 19 (2) of the Land Acquisition Act, giving particulars of Statements made in writing.	275
Form 17.—Forms of title-deeds to be granted etc.	275, 276
Form 18.—Application for the disposal under paragraph 329 Board's Standing Order No. 90 of agricultural or pastoral lands.	277
Form 19.—Special register of papers relating to acquisition of land for public purposes.	278
Form 20.—Annual statement—	
(a)—Statement of pending land acquisition cases	279
(b)—Details in respect of cases pending over one year	
Form 21.—Land Acquisition Check-Memorandum	279
Form 22.—Draft form of agreement under section 41 of the Land Acquisition Act.	283
Form 23.—Form of agreement relating to house-sites	285
Form 24.—Form of cancellation notice	286
APPENDIX XIII.—The Madras City Improvement Trust Act XVI of 1945 ..	287

APPENDIX I.

ZULES FRAMED UNDER SECTION 55 (1) OF THE LAND ACQUISITION ACT.

Rule 1.—Immediately after the publication of the notification under section 4 (1), the Collector shall issue a notice stating that the land is needed or is likely to be needed, as the case may be, for a public purpose and requiring all persons interested in the land to lodge before the Collector within 30 days after the issue of the notification, a statement in writing of their objections if any, to the proposed acquisition. This notice should be published at convenient places in the said locality, and copies thereof fixed up in the office of the Collector, the Tahsildar, and in the nearest police station. deleted. P 4

Rule 2.—The statement of objections should mention how the objector is interested in the land.

Rule 3.—(*a*) If a statement of objections is filed by a person who is not interested in the land, it shall be summarily rejected.

(*b*) If any objections are received from a person interested in the land and within the time prescribed in sub-section (1) of section 5-A, the Collector shall fix a date for hearing the objections and give notice thereof to the objector as well as to the department or company requiring the land, where such department is not the Revenue Department. Copies of the objections shall also be forwarded to such department or company. The department or company may file on or before the date fixed by the Collector a statement by way of answer to the objections and may also depute a representative to attend the enquiry.

(*c*) On the date fixed for enquiry or any other date to which the enquiry may be adjourned by the Collector, the Collector shall hear the objector or his pleader and the representative, if any, of the department or company and record any evidence that may be produced in support of the objections.

Rule 4.—On completion of his enquiry, the Collector shall submit the case for the decision of the Government through the Board of Revenue in the manner provided in section 5-A (2) of the Land Acquisition Act.

Rule 5.—On a consideration of the objections and the Collector's report thereon, if Government decide that the land should be acquired, the declaration required under section 6 of the Act should be submitted by the Collector of the district or Collectors of the districts concerned to Government for approval and publication in the official gazette. If, on the other hand, Government decide to give up the acquisition, a notification under section 48 (1) withdrawing from such acquisition shall be published by them.

Rule 6.—In these rules the words "Government" means "the Government of Madras".

G.Os. 1851, Rev., d. 21-12-23; 196, Rev., d. 9-2-26; and 2173, Rev., d. 1-11-27.

G.O. Ms. 1456, Rev., d. 6-6-38. B.P. 99, Press, d. 8-9-38.

APPENDIX II.

RULES FOR THE PAYMENT OF COMPENSATION FOR LAND TAKEN UP UEDER THE LAND ACQUISITION ACT I OF 1894.

1. *Land Acquisition Officers.*—After all preliminaries in respect to estimate, etc., that may be required under departmental rules in force for the time being have been duly carried out the land will be taken up under the Act either by the Collector or by some special officer who is placed at the disposal of the Public Works Department, and invested with the powers of a Collector under the Act; the procedure differs in the two cases.

2. *Procedure of Special Officers appointed under the Act.*—Officers who are specially employed for this work being invested with the power of a Collector under the Act and placed at the disposal of the Public Works Department, are regarded as Public Works Disbursers, and are supplied with funds in the manner prescribed for the works outlay of Public Works officers, the expenditure being accounted for under the rules in the Madras Public Works Account Code. The following procedure shall be observed by such officers.

3. When an award is made under section 11 of the Act, the officer shall have a statement prepared in the appended form (marked A) showing the amounts payable to each person under the award, and shall on the day the award is made, forward a copy of the statement, signed by himself, to the Accountant-General with whom he is in account. * Before signing the copy, the officer should carefully satisfy himself that it correctly shows the amounts due under the award, and should himself enter the total of column (7) of the statement in words both in the original and copy. A subsidiary statement in Form AA giving particulars regarding the acceptance, by the persons concerned, of the amounts entered in column (7) of the award statement should also be furnished to the Accountant-General as soon as possible. If the subsidiary statement is not complete on the day that the award is made, the necessary entries in column (8) of statement A will be made in the Accountant-General's office on the receipt of the statement in Form AA.

4. In cases where an award has been made by a court under section 26 of the Act, a second award statement should be prepared in the accompanying Form (marked B) by the land acquisition officer as soon as the decision of the court is ascertained, and a copy thereof forwarded to the Accountant-General. On receipt of this statement, the Accountant-General will proceed to check the entries in columns (1) to (4) with the original award by the officer.

5. Any change in the apportionment of the officer's award made by a court under section 30 of the Act, should also similarly be communicated to the Accountant-General for the necessary corrections in the award statement. And if under section 31 (3) of the Act, it has been arranged to grant a compensation otherwise than in cash, the nature of such compensation should be clearly specified in the column of remarks in the award statement.

---

* In all cases in which lands are acquired for railway administrations copies of the awards as well as copies of the award statements in Form A should be sent to the Chief Auditor of the railway concerned.

6. In giving notice of the award under section 12 (2) and tendering payment under section 31 (1) to such of the persons interested as were not present personally or by their representatives when the award was made, the officer shall require them to appear personally or by representatives by a certain date, to receive payment of the compensation awarded to them intimating also that no interest will be allowed them if they fail to appear. If they do not appear, and do not apply for a reference to the civil court under section 18, the officer shall, after any further endeavour to secure their attendance that may seem desirable, cause the amounts due to be paid in the treasury as revenue deposits payable to the persons to whom they are respectively due, and vouched for in the accompanying Form (marked E). The officer shall also give notice to the payees of such deposits, specifying the treasury in which the deposits have been made. In the Collectors' accounts the amounts deposited in the treasury will at once be charged off as Public Works expenditure, and when the persons interested under the award ultimately claim payment the amounts will be paid to them in the same manner as ordinary revenue deposits. The officer should, as far as possible, arrange to make the payments due in or near the village to which the payees belong in order that the number of undisbursed sums to be placed in deposit on account of non-attendance may be reduced to a minimum. Whenever payment is claimed through a representative, whether before or after deposit of the amount awarded, such representative must show legal authority for receiving the compensation on behalf of his principal. Appx. II.

Note.—There is no objection to the payment of the compensation by money order at the expense of the parties concerned if they apply for such form of payment and agree to bear the money order commission. In the case of petty payments not exceeding Rs. 50 in each separate case, if the payees do not appear on the day fixed for payment or apply for a reference to the civil courts under section 18, the officer shall issue notices to them informing them that if they do not attend by a certain date the compensation awarded to them will be remitted by money order, the amount of the money order commission being deducted. The following rules must be observed in making payments by money order :—

(i) Payment by money order should be confined to inland money orders only.

B.P. 6, d. 17–1–31.

(ii) No compensation due on account of land which is owned jointly by the proprietors of a village or subdivision of a village may be paid by money order.

(iii) In each money order so issued, the purpose of the remittance should be briefly stated in the acknowledgment portion thereof in continuation of the printed entry "Received the sum specified above on ;" sufficient space being left below the manuscript entry thus made for the signature or thumb-impression of the payee.

On receipt of the money order acknowledgment duly signed by the payee it should be attached to the usual receipt in Form C in which the full amount of the compensation and the deduction made therefrom on account of the money order fee should be clearly shown; the receipt will then be disposed of in the usual way. The Account department will accept such voucher with the money order acknowledgment as a valid receipt for the full amount entered therein.

(iv) For the words "Paid in my presence $\frac{\text{by cash}}{\text{by cheque}}$" in Form C, the words "paid by money order" shall be substituted.

The Accountant-General will accept, in the case of compensation paid by money order, a receipt for the amount entered in the award statement less the amount of the money order fee as a valid receipt for the full amount entered in the award statement.

7. In making direct payments to the persons interested under the award, the officer shall take the receipt of each person to whom money is paid on a separate voucher in the accompanying Form (marked C), containing a reference to the item showing the amount due to that person in the statement prescribed

Appx. II. in paragraph 3. In cases where payments are made to a number of persons under a single award, acquittance roll in Form CC may be substituted for separate receipts in Form C. The officer shall forward the separate receipts of the payees or the acquittance roll, as the case may be, to the Accountant-General with whom he is in account, when forwarding to him the account of the month in which the payments are made.

8. All payments into court for deposit under the Act should be made by means of cheques in favour of the presiding officer of the court, payable by order of the court to credit of civil court deposits. The cheques should be accompanied with receipts, in triplicate, in Form D, duly filled up, of which one will be retained by the court for record, and the other two returned duly signed to the Collector, who will keep one copy and forward the other to the Accountant-General with the accounts of the month in which the payments are made. The amounts deposited in the court will be charged off as expenditure in the Public Works Accounts of the Collector and the ultimate payments to the persons interested under the award shall be arranged for by the court under the rules for the payment of civil court deposits.

9. When a court has awarded any compensation in excess of the officer's award, the further payment due, as entered in column 6 of the award statement in Form B, should be made into the court by means of a cheque, and the procedure described in the preceding paragraph should be followed. Form D being used with the necessary changes to give full particulars of the order of the court.

10. Government may authorize any particular land acquisition officer to make all or any of his payments by cheques provided no inconvenience is caused thereby to the payees in consequence of the property being situated at a distance from the treasury.

11. *Payments under the Act after the Special Officer is relieved of his special duties.*—In any case in which a reference is made to the civil court and the award of the court is not made till after the special officer has been relieved of his special duties, the further payments due under the award shall be made by the Collector, who will observe the same procedure as if the reference to the civil court had been made by himself, as prescribed in paragraphs 8 and 9 above.

12. *Procedure of Collector or other civil officer not specially employed for land acquisition.*—When the land is taken up by the Collector or other civil officer, not specially employed for the work, such Collector or civil officer is not a Public Works disburser, but draws money for payment due under his award from the Civil Treasury. *Such Collector or civil officer shall, as soon as he makes the award, or as soon as he ascertains that an award has been made by the civil court, prepare a statement in Form A or B or in both, as the case may be, showing the amounts due, and forward a copy thereof to the Accountant-General concerned in the manner prescribed in paragraphs 3 and 4. Additions and alterations in the award statement should also be communicated to the Accountant-General as prescribed in paragraph 5, and a subsidiary statement in Form AA should, if necessary, be furnished as laid down in paragraph 3. The procedure laid down in paragraph 6 should also be observed by such Collector or civil officer.

* In all cases in which lands are acquired for railway administration, copies of the awards as well as copies of the award statements in Form A should be sent to the Chief Auditor of the railway concerned.

13. In making the payments due under the award, the Collector shall take from each person to whom payment is made a receipt in Form C, containing a reference to the particular entry in the award showing the amount due to the payee. In the case of payment to a number of persons under a single award, an acquittance roll may be substituted for separate receipts as laid down in paragraph 7. These receipts will be the Treasury Officer's vouchers for the payments, and shall be forwarded by him with the accounts of the month to the Accountant-General. For payments into civil courts the procedure laid down in paragraphs 8 and 9 should be observed. Appx. II.

14. The Treasury Officer has no concern with the award or with the award statement; he makes the payments on the authority of the Collector, or other officer assessing compensation. The Collector may either draw the amount to be disbursed to each payee separately, in which case he should countersign the receipt in Form C, and make it payable at the treasury to the payee, altering the words "Paid in my presence $\frac{\text{in cash}}{\text{by cheque}}$" to "Pay" or he may draw the total amount to be disbursed by him under the award on his own receipt as an advance, and after making the payments forward the receipts of the payees to the Treasury Officer in adjustment of the advance. In the former case, an advice list of the forms passed for payment should be sent to the treasury officer who in turn should send weekly an advice of orders paid.

15. *Audit by Account Officers.*—Whether the payment is made by a special officer or by the Collector (or other Civil Officer) the audit of the Accountant-General shall consist in seeing that every payment is supported by a receipt in Form C, CC, D or E and that the amount paid on such receipt is the amount payable under the award, as shown in the statement of which he will have received copies under the preceding orders. The Accountant-General will also note in the last column of Form A the date on which possession is taken as reported to him by the Executive Engineer or other officer.

16. The Accountant-General will, as he receives the vouchers, fill in the entries in the appropriate columns of the award statements (Forms A and B) and as he receives the reports of possession he will fill in the entries in column 10 of the statement in Form A when all the vouchers showing either payment to the payee or payment into the court on deposit and reports of possession have been received, he will forward a copy of the completed statements in Form A, AA and B to the Board of Revenue. This will complete the audit of the Accountant-General; any other or further returns or reports from the officers who assess or pay compensation will be disposed of by the Board of Revenue without reference to the Accountant-General. *See* also articles 586 to 588 of the Audit Code.

17. When the land is acquired for, and the cost is debitable to, any other department than the Public Works Department, the procedure will also be the same, the Account Officer who will audit the payments being substituted for the Accountant-General.

18. *Procedure when no money compensation is paid.*—In cases in which compensation is granted in the shape of either land in exchange or remission of revenue as provided in section 31 (3) of the Act, and the land is acquired for Government purposes, no adjustment of the value of the land given in exchange will be required, unless it is separately purchased by Government. If, however, the land is acquired for a body financially independent of Government the value of the Government land given in exchange

Appx. II. and the capitalized value of the abatement of land revenue should be charged against advances of funds (paragraph 20) made by that body.

19. *Investment of compensation money deposited in court.*—Investments under sections 32 and 33 of the Act of money deposited in court should be arranged for, in the case of purchase of Government securities, in communication between the court and the Deputy Controller of the Currency concerned, and purchase of land should be effected under the court's orders through the Collector or other Revenue Authority of the State. The Deputy Controller of the Currency will inform the court what sum should be remitted to enable him to make the investment, and this amount will be paid from the deposits in court.

20. *Audit adjustment and recovery of payments on behalf of bodies financially independent of Government.*—In any case in which land is acquired for a municipality or other body financially independent of Government, the Collector or other officer who makes payments on account of the land acquired shall draw funds from the treasury and make payments in the manner laid down in these rules using the forms prescribed and shall render his accounts to the Accountant-General. The municipality or other body will pay the estimated cost of the compensation to the credit of Government in advance * on such dates and in such instalments as the State Government may direct, further payment of Government being required as soon as the Accountant-General reports that the payments made exceed the amount received in advance. The Accountant-General will deal with the accounts and payments as prescribed in these rules, debiting the payments against the advances received for the municipality or other body.

* These sums should be credited in the treasury accounts to a special deposit head under "Civil Deposits—Deposits for work done for public bodies or individuals," while any charges should be supported by the prescribed vouchers, unless these cannot be furnished at once, in which case the Accountant-General will place them under objection, till the necessary vouchers have been obtained. If the awarding officer should at any time have in hand any sum in excess of his immediate requirements, he should repay it into the treasury for credit of the special deposit head; any balance of the sum originally credited which is not claimed at the expiration of a year from date of the award will be paid into a civil court by the officer in accordance with the rule 8.

FORM A.

Statement showing compensation awarded by *under section* , *Act I of* 1894, *to all the persons interested in the plot of land situated in the village of* *in estate* *No.* *on the roll of the district of*

Number and date of statement

Date of award

Name of work for which land has been acquired

Number and date of declaration in Gazette, viz., No. , dated , page

Serial number.	Names of persons to whom payment is due under the award.	Survey number and sub-division of land for which compensation is awarded.	Area of land.	Abatement of land revenue.	A valuation of any buildings that may be taken upon the land.	Total amount due to each person including the amount shown in column (6) the amount awarded for the land, interest, costs and any other amounts due to the payee in connexion with the acquisition of the land.	Distribution of the amount in column (7) taken from the subsidiary statement AA.	Remarks.	Number and date of voucher.		Date on which possession of the land was handed over to the departmental authorities for which it is acquired.	
									Number.	Date.	Date.	Reference to the report stating the date.*
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)		(11)	
			ACS. CTS.	RS. NP.	RS. NP.	RS. NP.						

* To be filled up in the Accountant-General's office.

Note.—(1) Each award statement should be confined to the lands to be taken under one declaration, i.e., the awards given for lands acquired under more than one declaration should not be incorporated in one statement, but as many separate statements submitted as there are declarations.

(2) Regarding column (8), see note to Statement AA.

G.O. Ms. 1698, Rev., d. 26-7-41.

B.P. 103, Press, d. 18-9-41.

G.O. Rt. 161, Rev., d. 15-3-57.

Appx. II.

FORM AA.

Particulars regarding the acceptance by the persons concerned of amounts entered in Award Statement No. , dated .

Name of work for which land has been acquired.

Number and date of declaration in Gazette, viz., No. , dated , page .

(1)	(2)	(3)									
Serial number in the Statement of Award under section 11 of the Act.	Name of person to whom payment is made under the award.	PARTICULARS OF AMOUNT ENTERED IN COLUMN 6 OF THE AWARD STATEMENT.									
		a		*b*		*c*				*d*	
		Amount accepted without protest.		Amount accepted under protest.		Amount deposited in court.				Amount undisbursed owing to non-attendance and the treasury in which it is deposited.	
						Amount.		Court.	Reasons for depositing.		
		RS.	NP.	RS.	NP.	RS.	NP.			RS.	NP.

Note.—In noting these particulars in the award statement, it may be sufficient to enter the letter *a*, *b*, *c* or *d*, as the case may be, in column 8 of the statement, when the whole amount of the award is shown in one of the four sub-columns *a*, *b*, *c* or *d* in this statement.

G.O. Rt. 161, Rev., d. 15-3-57.

FORM B.

Statement showing the amount of compensation awarded by the court under section 26 of Act I of 1894.

Number and date of statement.
Name of work for which land has been acquired.
Number and date of declaration in Gazette, viz., No. , dated, page .

Serial number in the Statement of Award under section 11 of the Act.	Names of persons to whom payment is due under the award.	Amount originally awarded.		Amount paid by Collector under the original award.		Total amount awarded by the Court.		Further payments due.		Remarks.	Number and date of voucher.
(1)	(2)	(3)		(4)		(5)		(6)		(7)	(8)
		RS.	N P.	RS.	NP.	RS.	NP.	RS.	NP.		

G.O. Rt. 161, Rev., d. 15-3-57.

FORM C.

Number of voucher
Name of work for which the land has been acquired
Number and date of declaration in *Gazette*, viz., Number , date
Serial Number in Award Statement Number , dated
Name of payee
I of
taluk district
do hereby acknowledge to have received Rs.
on account of cost of land taken up by Government, as detailed on reverse.

Signature of the payee
Locality

Note.—The receipt should be in English, but when the payee is unable to write in English, he may give a receipt in the regional language.

Across in red ink.

Paid in my presence $\frac{\textit{in cash}}{\textit{by cheque}}$ *to* *resident*
of village *station* *taluk*
district *the sum*
*of Rupees** *naye Paise* *only*

* In words,
Rs.†
† In figures,
Dated 19 .

FORM C.

Number of voucher
Name of work for which the land has been acquired
Number and date of declaration in *Gazette*, viz., Number , date
Serial Number in Award Statement Number , dated
Name of payee
I of
taluk district
do hereby acknowledge to have received Rs.
on account of cost of land taken up by Government, as detailed on reverse.

Signature of the payee
Locality

Note.—The receipt should be in English, but when the payee is unable to write in English, he may give a receipt in the regional language.

Across in red ink.

Paid in my presence $\frac{\textit{in cash}}{\textit{by cheque}}$ *to* *resident*
of village *station* *taluk*
district *the sum*
*of Rupees** *naye Paise* *only*

* In words,
Rs.†
† In figures,
Dated 19 .

Reverse of Form C.

DETAILS OF LAND, ETC., AND THEIR VALUES.

Village , *Taluk* , *district*
Land *Acres* *Cents*
Value *Rupees* *naye Paise*

G.O. Ms. 1698, Rev., d. 26-7-41.

DETAILS OF LAND, ETC., AND THEIR VALUES.

Village , *Taluk* , *district*
Land *Acres* *Cents.*
Value *Rupees* *naye Paise*

B.P. 163, Press, d. 18-9-41.

G.O. Rt. 161, Rev., d. 15-3-57.

FORM CC.

Consolidated voucher for payment made during 19 , in accordance wit Award Statement No. , dated on account of land acquired for in the district of , taluk , village

Serial number in Award Statement. (1)	Name of payee. (2)	Area of land. (3)	Amount paid. (4)	Signature of the payee and date of payment. (5)
			RS. nP.	
	Total ..			

Paid in my presence in cash / by cheque to the above persons the total sum of rupees* naye Paise* only.

Dated the 19 . Signature of Officer.

* In words.

G.O. R. 161, Rev., d. 15-3-57.

FORM D.

Name of work for which land has been acquired.

TO THE JUDGE OF THE COURT AT

The sum of Rs. on account of compensation for land taken up for the above purpose, payable as detailed below, is tendered for deposit in court under section 31 (2) of Act I of 1894 :—

Serial No. in Award Statement No.	Names of parties.	Area of land.	Amount payable to each.		Remarks.
		ACS.	RS.	nP.	
	Total ..				

Dated 19 . *Land Acquisition Officer.*

Received the above amount for credit to Civil Court deposits.

Judge.

Note.—This form should be used when the amounts of compensation due are sent to a Civil Court for deposit.

Across.

Paid by cheque No.
Dated on the
treasury.

FORM D.

Name of work for which land has been acquired.

TO THE JUDGE OF THE COURT AT

The sum of Rs. on account of compensation for land taken up for the above purpose, payable as detailed below, is tendered for deposit in court under section 31 (2) of Act I of 1894 :—

Serial No. in Award Statement No.	Names of parties.	Area of land.	Amount payable to each.		Remarks.
		ACS.	RS.	nP.	
	Total ..				

Dated 19 . *Land Acquisition Officer.*

Received the above amount for credit to Civil Court deposits.

Judge.

Note.—This form should be used when the amounts of compensation due are sent to a Civil Court for deposit.

Across.

Paid by cheque No.
Dated on the
treasury.

G.O. R. 161, Revd. 15-3-57.

FORM D.

Name of work for which land has been acquired.

TO THE JUDGE OF THE COURT AT

The sum of Rs. on account of compensation for land taken up for the above purpose, payable as detailed below, is tendered for deposit in court under section 31 (2) of Act I of 1894 :—

Serial No. in Award Statement No.	Names of parties.	Area of land.	Amount payable to each.		Remarks.
		ACS.	RS.	nP.	
	Total ..				

Dated 19 . *Land Acquisition Officer.*

Received the above amount for credit to Civil Court deposits.

Judge.

Note.—This form should be used when the amounts of compensation due are sent to a Civil Court for deposit.

Across.

Paid by cheque No.
Dated on the
treasury.

Form E.

Name of work for which land has been acquired ______

To the Officer in charge of ______ treasury.

Please receive for transfer to credit of Revenue deposits the sum of Rs.______ on account of compensation for land taken up for the above purpose, payable as detailed below :—

Serial number in Award Statement No.	Names of persons to whom due.	Area of land.	Amount payable to each.		Remarks.
		ACS.	RS.	NP.	
	Total ..				

Dated ______ 19 . *Land Acquisition Officer.*

Received the above amount and credited to Revenue deposits.

Treasury Officer.

Note.—This form should be used when the amounts of compensation due are sent to treasury in the absence of proprietors who have failed to present themselves for payment.

Form E.

Name of work for which land has been acquired ______

To the Officer in charge of ______ treasury.

Please receive for transfer to credit of Revenue deposits the sum of Rs.______ on account of compensation for land taken up for the above purpose, payable as detailed below :—

Serial number in Award Statement No.	Names of persons to whom due.	Area of land.	Amount payable to each.		Remarks.
		ACS.	RS.	NP.	
	Total ..				

Dated ______ 19 . *Land Acquisition Officer.*

Received the above amount and credited to Revenue deposits.

Treasury Officer.

Note.—This form should be used when the amounts of compensation due are sent to treasury in the absence of proprietors who have failed to present themselves for payment.

G.O. R. 161, Rev., d. 15-3-57.

APPENDIX III.

MEMORANDAM OF PRINCIPLES TO BE FOLLOWED IN REGARD TO THE ASSESSMENT OF COMPENSATION FOR LAND REQUIRED IN BRITISH INDIA AND THE INDIAN STATES FOR IRRIGATION, NAVIGATION, EMBANKMENT, BUILDINGS, ROADS, BRIDGES, WATERSUPPLY SCHEME AND DRINAGE WORKS AND WORKS CONNECTED WITH OR SUBSIDIARY TO THEM UNDER TAKEN BY A PROVINCIAL GOVERNMENT OR LOCAL ADMINISTRATION IN BRITISH INDIA AND VICE VERSA.

I. When land in British Indian territory is required by or at the expense of the Indian State, such land as is in private ownership will be acquired by the British Indian Revenue authorities as for a public purpose, under the Land Acquisition Act. The State will be required to pay, as a compensation for the land made over to it the actual amount of the awards paid in the case of private lands and in the case of Government lands, the full market value. In addition to the amount of the awards or market value, as the case may be, such incidental items of expenditure as the cost of establishment, demarcation, stationery as well as law charges, which may be incurred by the acquiring Government in the event of the matter being taken to a court will be recoverable in respect of both private and Government lands. The State will be also required to pay compensation for the value of extinguished land revenue, the amount to be settled by negotiation in individual cases, due regard being had to the indirect advantages accruing to the British Indian Government concerned from the works, etc. In cases which involve the submergence of considerable areas compensations for the loss of miscellaneous revenue derived from such areas may be payable in addition. Where differences of opinion occur between the States concerned and the local Revenue authorities as to the compensation payable, a Board of Arbitration will be appointed consisting of one member appointed by the State, another by the Government of the Province in which the land is situated or by the Central Government when the land is situated in an area administered by that Government, and a third member appointed by mutual consent. The Board's decision shall be final and shall include a decision on the incidence of the cost of arbitration.

II. Before making an award in the case of private lands in British Indian territory to be acquired for a State or fixing the amount of compensation in case of Government land the responsible officer will be required to send all necessary details, together with the estimates of the amount payable, to the State and to give every facility for checking them to the officer or the officers concerned for the purpose, and to taking into consideration any representation which such officer or any other duly accredited representative of a Darbar may make, whether orally or by a letter. Such officers or representatives should be afforded an opportunity of appearing in person or by agent and of producing evidence as to the value of the land before any award relating to it is made, or the amount of compensation is fixed.

III. When land is required in State territory by a British Indian Administration, the general principles to be observed shall be, that the same degree of compensation shall be paid to the State concerned as is payable by States under the provisions of the preceding clauses. In the case of those States and the estates which under the terms of their treaties, sanads and any other existing contracts are bound to provide any facilities or land in their territories free of cost, the question whether compensation will be paid or not will be left for negotiation between the political authorities and the States concerned.

IV. In order to give effect to these general principles the following procedure shall be observed :—

In cases in which it is proposed to acquire private rights in land in a State the proceedings, where the State concerned has enacted the Land Acquisition Act, will be under that law, and the provisions of clause II will apply *mutatis mutandis*. Where there is no Land Acquisition Act or where the State itself owns or has rights in the land which it is proposed to acquire, the estimates of the amount payable will be framed by the State authorities and forwarded to the Provincial Government or local administration concerned, who will be afforded the facilities specified in clause II for checking the estimate. If such estimates are accepted by the Provincial Government or local administration they will be treated as a settlement. Where, however, differences of opinion occur between the State authorities and the Provincial Government or local administration concerned as to the compensation payable, arbitration will take place in the manner provided in paragraph 1.

V. When a work is constructed by a State or States in British Indian territory, the State or States concerned will have precisely the same rights as authorities in charge of Government works in British Indian territory in the matter of quarrying stone or excavating materials required for the purpose of, or in connexion with the work. In cases where rates of royalty for quarrying stone and excavating material are levied, resort will be had to arbitration in the manner provided in clause I above, in the event of agreement as to the rates payable not being reached.

VI. When a work [is constructed in State territory, the general principle to be observed will be that the authorities in charge of the work shall enjoy the same rights as regards quarrying stone or excavating material as they would be entitled to in British Indian territory, the rates of royalty if any payable being determined in accordance with the rules in force in the State. In cases where there are no such rules, or where the authorities in charge of the work consider that the rates under State rules are unduly high, resort will be had to arbitration in the manner provided in clause IV above.

VII. Where land is required for temporary occupation the procedure in British India will be under Part VI of the Land Acquisition Act, and in States in which a law on the same lines is in force under that law. In cases where there is no such law, the terms of occupation and use will be settled by mutual agreement; and in cases of dispute as to the terms, by arbitration in the manner prescribed in clause IV above.

VIII. Acquisition in accordance with these principles is in all cases conditional on the parties having previously agreed to the construction of the work for which the land is required.

G.O. Ms. 1201, Rev., d. 5-6-46 and Govt. Memo. No. 1556-
d. 4-6-46.

B.P. Press 23, d. 3-10-46.

APPENDIX IV.

RULES AND INSFRUCTIONS CONNECTION WITH ADVANCES FOR THE ACQUISTION OF HOUSE SITE IN RURAL AREAS FOR THE COMMUNITIES ELIGIBLE FOR THE AMELIRATIVE EASURES UNDES TAKEN BY THE HARIJAN WELFARE DEPARTMENT AND FOR SANDLESS LABOURERS.

1. Acquisition of land for house-sites for the Harijans and other communities, eligible for the ameliorative measures undertaken by the Harijan Welfare Department and for landless labourers of fixed abode will be undertaken in genuine cases of congestion in existing village or Harijan Colony by the District Welfare Officers after obtaining the Collector's sanction to the scheme and after provision has been made for the funds required under "Government Grants" and "Advances." These rules apply only to the acquisition of land to relieve congestion in villages but not to cases where the landless occupants of houses on private lands are in danger of eviction. Should information indicate the need for action in such cases a special report should be submitted for the orders of Government.

NOTE.—"Landless labourers of fixed abode" means "labourers who do not own any land and whose main occupation is agriculture".

2. House-sites will be given free of cost to all Harijans who do not already own house-sites, except in cases where they can afford to pay. Converts from Harijans in similar position will also be given house-sites free of cost. Each family will be eligible for an extent of 3 cents in wet areas and 5 cents in dry areas.

3. The extent of land, namely, 3 cents in wet areas and 5 cents in dry areas referred to in rule 2 above, should be exclusive of the land required for the provision of common places like streets, lanes, pathways, etc., the cost of acquisition of which will also be met by Government, in full as hitherto.

4. (i) In order that the concession of granting house-sites free of cost is restricted only to those who do not already own house-sites and cannot afford to pay the cost of the house-sites to be granted to them, the Collectors should assess and fix the paying capacity of the head of each individual family, so that the cost of the land can be recovered from those who could afford to pay.

(ii) The Collector should also satisfy himself that the site proposed for acquisition is the cheapest available that is suitable for the purpose, having regard to the healthiness of the locality and the wishes and financial resources of the applicants.

(iii) Proceedings under the Land Acquisition Act should not be initiated without first obtaining the opinion of the District Health Officer as to the suitability or otherwise of the site proposed to be acquired for the purposes of habitation.

5. Any practical difficulties existing in the actual assignment of house-sites should be referred to Government for orders through the Board of Revenue.

6. In cases where Harijans already own house-sites which are less than the minimum extent prescribed, where the existing house-sites are very congested and where the proposals are to relieve congestion, the minimum extent may be given free of cost from the new sites to those Harijans who relinquish their old sites unconditionally. The sites so relinquished should be utilized either for the extension of the existing sites or for providing other amenities necessary for the Harijan Colony.

Appx. IV.

7. After the Collector sanctions the acquisition and before further action is taken, Harijan applicants in whose cases the sites are acquired (at their cost) should execute a preliminary stamped agreement in the form prescribed in Annexure I. In the case of Harijan applicants for whom the sites are acquired to be given free of cost, it will be sufficient if they execute agreements on printed forms with suitable modifications.

8. (1) In cases of wholesale shifting of the Harijan Colony due to insanitary conditions or for other reasons, the Harijans who relinquish their old sites unconditionally will be eligible for house-sites, free of cost, in the new Harijan Colony; those who do not so relinquish their old sites shall be liable to pay the entire cost of the new house-sites.

(2) In cases where the Harijans have to pay the entire cost of acquisition, or a portion of it, the applicants will be required to deposit 25 per cent of the cost before the acquisition and to pay the balance in equal annual instalments, not exceeding five, discharging both principal and interest.

9. (i) The Government will bear the entire cost of acquisition of the portion to be set apart for the common use of the villagers and of vacant spaces (included in the land to be acquired) the assignment of which is not immediately contemplated.

(ii) The following percentages relating to the extent of land required for house-sites should be adopted as far as possible, while setting apart land for the common use of the villagers :—

Additional per cent of land to be acquired.

	Area occupied by 5-cent sites.	Area occupied by 3-cent sites.
	PER CENT.	PER CENT.
1 For streets	30	50
2 Communal purposes	20	25
3 Future requirements	10*	10 *

* Ten per cent of the area of the existing Harijan Colony (entire extent) plus 10 per cent of the area required for house-sites and communal lands and streets in the proposed extension.

10. (i) As regards communities, other than Harijans eligible for help by the Harijan Welfare Department and landless labourers of fixed abode, the Government will bear, as a special concession, half the cost of the acquisition of the portions actually to be occupied as house-sites, subject to a maximum of Rs. 150 per acre for dry land, Rs. 350 per acre for wet land and Rs. 250 per acre for garden land. The balance is payable by the applicants. In these cases also, those who can afford to pay the entire cost of house-sites should not be shown the special concession, viz., Government meeting half the cost of house-sites. The entire cost should be collected from them. In the case of those who cannot afford to pay the entire cost, the paying capacity of the persons should be assessed individually and such sum as they can pay should be collected, the concession, if any, which is shown to these persons should be subject to the maximum limits laid down.

(ii) The applicants will be required to deposit 25 per cent of the balance before the acquisition and to pay the balance in equal annual instalments, not exceeding five, discharging both principal and interest.

11. (i) The approval of the Director of Town-Planning should be obtained to the layout of the plot in all cases except when it is proposed to assign house-sites to a small number of applicants not exceeding ten.

(ii) The preparation of the layout plans may be initiated simultaneously with the starting of the acquisition proceedings. It is enough if the plans are approved by the Director of Town-Planning before the proceedings are completed and the lands are assigned. The acquisition proceedings need not, however, be held up till the layout plans are approved by the Director of Town-Planning.

12. In the event of the cost of acquisition being subsequently enhanced by the Civil Court, the Government will pay only 50 per cent of the value of the land actually acquired for house-sites for communities other than the Harijans eligible for help by the Harijan Welfare Department and landless labourers of fixed abode as determined by the Court subject to the maximum of Rs. 150 per acre for dry land, and Rs. 350 per acre for wet land and Rs. 250 per acre for garden land. In special circumstances, such as where there are grounds for holding the award of the Court unreasonable, a further grant may be sanctioned by the Government with reference to the actual merits of the case.

In the case of Harijans, the entire amount enhanced by the Civil Court may be borne by the Government or by the Harijans or partly by the Government and partly by the Harijans according to the paying capacity of the Harijans reassessed in each case.

13. In cases in which there is a risk of enhanced compensation being awarded by the Civil Courts, the land shall not be taken possession of until six weeks after the passing of the award in order to see if a reference to the Court will be made by the party or until the reference to the Court, if already made, is actually disposed of.

14. The grantee, shall not, without the sanction in writing of the Government or of the authority to whom the power to accord sanction in this behalf may be delegated, alienate the land by way of sale, gift, mortgage or lease of any kind to any person whomsoever provided that—

(*a*) in the event of the grantee selling the land with such sanction as aforesaid, the Government shall be entitled to a share of the proceeds of such sale and the amount of such share shall bear the same proportion to the total amount realized by such sale as the Government's proportionate contribution to the cost of acquisition of the land sold bears to the total cost thereof and if the grantee has not completed the repayment of the instalments in accordance with rule 10 (i) and (ii), he shall pay, in addition, the amount due to the Government under the said rules; and

(*b*) the grantee shall not be allowed to make a gift of the land unless he pays to the Government the amount contributed by them and the unpaid balance, if any, of the instalments due under rule 10 (i) and (ii).

15. After the acquisition is completed, the land shall, unless it has not been taken possession of for reasons such as those mentioned in rule 10 above, be taken possession of and the sites handed over to the grantees. Conditional order of grants in the form prescribed in Annexure II should be prepared in duplicate, one copy being given to the grantee after taking his signature or his attested left thumb-impression on the other copy, which should be filed in the assignment file.

For purposes of handing over the sites, detecting future encroachments and verifying from time to time that the conditions of assignment are being observed, the Tahsildar shall be furnished with two copies of the sanctioned alignment sketch, one to be filed in his office and the other for the use of the village officers. Appx. IV.

16. Immediately after the acquisition is completed, the District Welfare Officer will prepare a statement in Form E, in duplicate, with the particulars regarding names of grantees, etc., noted therein and send it to the Tahsildar. The Tahsildar will keep a copy in his office and transmit the other copy to the village officers.

17. (i) The date on which the debit is raised to the "Advance" head should be the date of advance.

(ii) The amount repayable to the Government shall be repaid in equal annual instalments discharging both principal and interest.

(iii) If the compensation payable for the acquisition of the land is subsequently increased by an award of the Court on a reference under the Land Acquisition Act or on an appeal therefrom, the grantee shall also pay a portion of such increased amount and the annual instalments payable by the grantee shall be increased at the discretion of the Government in amount or in number, or in both, as the Government may think fit so as to cover the grantee's portion of the increased amount and interest thereon and the grantee shall pay to the Government such enhanced instalments accordingly. All expenditure incurred in the conduct of the proceedings in Court and the entire interest charges on the amount of the enhanced compensation awarded by the Court from the date of taking delivery of the land to the date of payment of such amount in the Court will be borne by the Government.

(iv) The first instalment referred to in this paragraph shall be paid immediately after the delivery of the site and the issue of the assignment order. Subsequent instalments shall ordinarily be payable on the 1st January; it is, however, open to Collectors of districts to fix other dates to suit the circumstances of their districts. Collectors of districts are authorized to postpone the collection of instalments, whenever, for causes beyond the borrower's control, the repayment of such instalment becomes unduly burdensome.

(v) The grantee shall be at liberty at any time to pay the entire balance of money due by him or any part thereof provided he pays also at the same time all assessment which may be then due to the Government; payment of an annual instalment before the due date shall be treated as having been made on the due date. Any sum paid in excess of an annual instalment shall be credited to the next instalment unless the grantee at once asks for its refund in which case it shall be refunded. Such excess payments shall not be credited to the principal alone unless the grantee wishes to repay the entire amount due by him in which case his liability will be recalculated and fixed.

(vi) If less than the full amount due is paid, the payment should be credited first towards the amounts left unpaid in respect of the equated payment for the oldest years.

18. The provisions of the Madras Revenue Recovery Act, 1864 (Act II of 1864), are applicable to the recovery of these advances. It is the duty of the Revenue department to recover the instalments of advances granted to the communities eligible for the ameliorative measures undertaken by the Harijan Welfare department and landless labourers for the acquisition of house-sites. In no case should an advance instalment fallen due be ordinarily

Appx IV. allowed to remain outstanding in the accounts for more than a year after it has fallen due unless the collection of the instalment has been ordered to be postponed by the Collector under rule 17 (iv) above. If recourse to coercive processes does not fully bring in the amount due, the site should be resumed unless after enquiry and for reasons to be recorded, the Collector considers it reasonable to write-off the overdue instalments. If the site is so resumed, all sums already paid by the grantee shall be forfeited to the Government.

Note.—The instructions in the Village Officers' and Ryots' Manual requiring village officers to guard against delay and irregularities in making collections, bringing them into account and remitting them to the taluk treasury, apply also to the collection and remittance of the amounts advanced by the Harijan Welfare department. Revenue Inspectors, Tahsildars and touring officers should scrutinize headman's cash accounts in their tours.

19. Collectors of districts are competent to write-off balances of advances in deserving cases when the principal does not exceed Rs. 100 in each individual case. The Director of Harijan Welfare is competent to write-off balances of advances in deserving cases when the principal does not exceed Rs. 250 in each individual case. The Director of Harijan Welfare and the Collectors are competent to waive the interest of the principal amount written off.

20. The following accounts will be maintained :—

The 'E' register prescribed in B.P. Press No. 46, (Land Revenue and Settlement), dated 13th May 1931, and now amended to serve as a ledger of advances and repayments will be maintained in the Harijan Welfare section of the Collector's office and in all the Taluk offices and villages concerned. The register will be in two sections—Section A gives details of the advance commitment and section B is for watching repayments by individual grantees. Section A which will be for each award should be maintained in the Harijan Welfare section of the Collector's office where there is one or by the acquiring officers in districts in which no Harijan Welfare staff is working. In the Taluk office and in the village, both the sections of registers should be maintained, one set of registers being maintained for each case of award. As many pages of section B as there are grantees of house-sites in the land acquisition case, should be attached to this register and the repayment made by the grantees should be posted in the respective pages. If there is a supplemental award in a land acquisition case on account of a reference to the Courts or on an appeal, section A of the register should be suitably re-written. Particulars for filling up section A and the individual-war particulars at the top of section B of the register will be supplied from time to time by the District Welfare Officers. Copies of both sections of the 'E' register with particulars of the names of grantees and the amount of annual instalment due by each grantee will be supplied to the village headman by the District Welfare Officer through the Taluk Tahsildar.

The village headman should collect the instalments as recorded in the 'E' Register, note the collections from each individual in Form No. I and acknowledge receipt of the collections in the conditional grant order issued to the grantee or on a separate receipt book. At the time of remittance a duplicate copy of the account should be prepared and sent to the Taluk office with the remittance list. On this duplicate, the chalan number and date should be noted under the initials of the Taluk Head Accountant. It is the duty of village accountant to maintain the village 'E' Register, prepare ademand list, write the Form I and prepare the duplicate thereof and note the collections in the 'E' Register. All scriptory work should be done by him.

On receipt of the remittance, the Taluk advance clerk should note the total collections in Form I-A, post the individual collections noted in the duplicate Form I in the Taluk E Register under the initials of the Taluk Head Accountant, and should file the duplicate of Form 1 in the Taluk office. Appx. IV.

Form II-A—Demand, Collection and Balance—Village Posting Register.—Entries in columns (1), (2), (3), (4) and (5) should be posted from the register in Form E. This posting should be done in advance about the month of December for all borrowers by the Taluk office and copies should be furnished to village officers by the office by the 15th December, to enable them to make the collections before the 10th January. The total for each award should be posted in Form II-B. Collections should be posted from Forms I and I-A.

Form II—Statement of Demand, Collection and Balance.—This will be posted from the totals of Form II-B and submitted to the Collector and to the Divisional Officers on or before the 5th of every month. Copy of this Demand, Collection and Balance statement together with a copy of the Taluk posting register (Form II-B) should be sent to the District Welfare Officer at the same time.

In Statements II-A and II-B, entries should be made for all the cases in the month of January. In the succeeding months, it is not necessary to repeat all the entries; entries may be made only for those cases in respect of which there have been collections in the month. From these the totals required for the Demand, Collection and Balance statement can be worked out.

Form III.—Each Sub-Treasury Officer should send a statement in this form to the Treasury Deputy Collector every month with the treasury account and a copy of it to the District Welfare Officer in which are to be entered the particulars of disbursements in the month. The Treasury Deputy Collector will furnish a consolidated plus and minus memorandum to the District Welfare Officer every month.

ANNEXURE I.

Form of agreement.

THIS AGREEMENT entered into this day of one thousand nine hundred between the Governor of Madras which expression shall where the context so admits include his successors and assigns of the one part and son of residing at of the other part.

WHEREAS it has been decided that the plot or parcel of land more particularly described in the schedule hereto should be acquired by State by initiating proceedings under the Land Acquisition Act, 1894;

AND WHEREAS the said has applied to Collector of for and on behalf of the Government of Madras for a plot of land measuring acres cents in extent, being a portion of the land above mentioned;

AND WHEREAS the said has paid into the Treasury to the credit of the Government of Madras the sum of Rs. as a deposit or initial payment towards the cost of such plot or parcel of lan d

Appx. IV. NOW THIS INDENTURE WITNESSETH

(1) The said agrees that the marking out and division of the said plot of land into house-sites and the distribution of the same by the Collector or some person deputed on his behalf shall be final and to accept without any question of dispute whatsoever the site that may be allotted to him by the said Collector of or such other person as may be deputed on his behalf.

(2) The said agrees to pay to the Government of Madras the proportionate cost incurred by the said Government in acquiring the plot of land that may be allotted as aforesaid, exclusive of the deposit of Rs. now paid by him and also of the amount of contribution by the Government subject to a maximum of Rs. 150 per acre for dry land, Rs. 350 per acre for wet land, and Rs. 250 for garden land with interest at the rate charged for loans under the Agriculturists' Loans Act, 1884, from the date the amount was paid in the first instance by the said Government on behalf of the said in annual instalments not exceeding five by way of equated payments covering principal and interest.

(3) The said agrees that if the amount of compensation payable for the acquisition of the land is subsequently increased by an award of court on a reference under the Land Acquisition Act, 1894, or on an appeal therefrom, the instalments payable by him shall be increased at the discretion of the Government of Madras in amount or in number or in both so as to cover the amount of additional compensation and all expenditure incurred by the said Government in the conduct of the proceedings in courts and the said shall pay to the said Government such enhanced or additional instalments accordingly, exclusive of the Government contribution as determined by the court subject to the maxima in clause (2) above.

(4) The said agrees that he will not without the sanction in writing of the Government or the authority to whom the power to accord sanction in this behalf may be delegated, alienate the land by way of sale, gift, mortgage or lease of any kind to any person whomsoever provided that—

(*a*) in the event of his selling the land with such sanction as aforesaid, the Government shall be entitled to a share of the proceeds of such sale and the amount of such share shall bear the same proportion to the total amount realized by such sale as the Government's proportionate contribution to the cost of acquisition of land sold bears to the total cost thereof and if he has not completed the repayment of the instalments in accordance with paragraph (2) above, he shall pay in addition the amount due to Government under the said paragraph.

(*b*) he shall not be allowed to make a gift of the land unless he pays to the Government the amount contributed by them and the unpaid balances, if any under paragraph (2) above.

(5) The said hereby agrees to accept from the Government of Madras a grant of the said piece or parcel of land shown in the form appended to and containing the conditions prescribed in G.O. No. 3181, Revenue, dated the 28th November 1939 or any of the Government Order, published in substitution therefor or modification thereof.

(6) The said hereby agrees that in the event of breach or non-performance of the covenants and conditions herein contained or in the event of the acquisition proceedings being withdrawn

at his instance the said Government of Madras may at their option and without prejudice to their other rights and remedies forfeit the whole or part of the deposit hereinbefore mentioned together with any moneys that may have been paid by him to the said Government of Madras under and by virtue of these presents.

The schedule above referred to.

IN WITNESS WHEREOF the said has hereunto set his hand and seal the day and year first above written.

Signed, sealed and delivered by the above named in the presence of

ANNEXURE II.

Form of order of assignment.

I, , the undersigned do hereby grant to , son of , residing at acres of land in S. No. of village, taluk, district, subject to the following conditions :—

(1) The grant is liable to cancellation without the payment of any compensation—

(*a*) if it be found that it was grossly inequitable or was made under a mistake of fact or owing to misrepresentation or fraud or in excess of the limits of authority delegated to the officer making the grant or that there was any irregularity in the procedure, or

(*b*) on appeal or in revision by a duly constituted appellate or revisional authority.

(2) In the event of the grant being cancelled, the grantee shall not be entitled to compensation for any improvements that he may have made on the land.

(3) The grantee shall pay to the Government of Madras (hereinafter called "the State") the sum of Rs. being a portion of the cost incurred by the State in acquiring the land, together with interest thereon at per cent per annum, by an initial deposit of Rs. and by equal annual instalments of Rs. for years, discharging both principal and interest. The first of such annual instalments shall be paid on the day of 19 , and the subsequent instalments on the day of in each succeeding year.

(4) If the compensation payable for the acquisition of the land is subsequently increased by an award of the court on a reference under the Land Acquisition Act or on an appeal therefrom, the grantee shall also pay a portion of such increased amount together with interest on such portion from the date of payment of the enhanced compensation and the annual instalments payable by the grantee shall be increased at the discretion of the State in amount or in number of instalment or in both as the State may think fit so as to cover the grantee's portion of the increased amount and interest thereon and the grantee shall pay to the State such enhanced instalments accordingly.

Appx. IV.

(5) The cost that will be borne by the State under conditions (3) and (4) shall not exceed one-half of the total cost of the land granted subject to a maximum of Rs. 150 per acre in the case of dry land, and Rs. 350 per acre in the case of wet land and Rs. 250 per acre in the case of garden land.

(6) The grantee shall be at liberty at any time to pay the entire balance of money due by him or any part thereof provided he pays also at the same time all assessment which may be then due to the State. Payment of an annual instalment before the due date shall be treated as having been made on the due date. Any sum paid in excess of an annual instalment shall be credited to the next instalment unless the grantee at once asks for its refund in which case it shall be refunded. Such excess payments shall not be credited to the principal alone unless the grantee wishes to repay the entire amount due by him, in which case his liability will be recalculated and fixed.

(7) The grantee shall pay the assessment and taxes that may from time to time be imposed or levied on such lands.

(8) (i) The grantee shall not, without the sanction in writing of the State or of the authority to whom the power to accord sanction in this behalf may be delegated, alienate the land for 30 years by way of sale, gift, mortgage or lease of any kind to any person whomsoever:

Provided that—

(*a*) in the event of the grantee selling the land with such sanction as aforesaid, the State shall be entitled to a share of the proceeds of such sale and the amount of such share shall bear the same proportion to the total amount realized by such sale as the State's proportionate contribution to the cost of acquisition of the land sold bears the total cost thereof and if the grantee has not completed the repayment of the instalments in accordance with conditions (3) and (4), he shall pay in addition the amount due to the State under the said conditions; and

(*b*) the grantee shall not be allowed to make a gift of the land unless he pays to the State the amount contributed by them and the unpaid balance, if any, of the instalments due under conditions (3) and (4).

(ii) Except for recovery of revenue or other sums due to the State, the land shall not be liable to attachment or sale in execution of any decree or order of Court:

Provided that nothing herein contained shall affect the right of the State to recover all sums due to them as if it were an arrear of land revenue under the Madras Revenue Recovery Act, 1864.

G.O. Ms. 116, Dev., d. 9-1-48.

B.P. Press 7, d. 11-3-48.

(9) The existing and customary rights of the State and the public in roads and paths and rivers, streams and channels running through or bounding the land are reserved and are in no way affected by the grant and the rights of the State shall be reserved to all gold and other minerals or coal and stone or rock containing or supposed to contain gold and other minerals or coal and the grantee shall not be at liberty to work the said gold or other minerals or coal except on permission or licence duly obtained from the State; also reserve to themselves or to persons authorized by them in this behalf the powers necessary for the proper working of the minerals such as the full and free liberty and right of ingress, egress and regress, etc., as detailed in Part II of the model form of mining lease in Appendix IX, Chapter VIII, of the Madras Mining Manual, subject to the payment or rendering of compensation to the surface owner for all damage that he may sustain by the exercise of such right.

(10) The State reserve the right to charge ground-rent for the site, should the village be declared a town at any future date. The ground-rent so charged shall be liable to revision in accordance with the rules in force at the time of such revision. Appx. V.

(11) The grantee shall not carry on any trade or business upon the premises or any part thereof, but shall use the plot of land as house-site and if there is not already a house in the plot, erect thereon within years a private dwelling house only and shall not use or occupy the same or any part thereof nor permit the same or any part thereof to be used or occupied so as in the opinion of the State or of any officer authorized by them in this behalf to damage or injuriously affect the adjoining property or create a nuisance. A space shall be left vacant both in front and in the rear of the actual building. In no case shall the building be constructed within 5 feet from the edge of the road.

(12) (i) In the event of the breach by the grantee of any of the above conditions or in the event of the grantee leaving the house unoccupied for a period of one year, the State or any officer authorized by them in this behalf may, unless the grantee furnishes valid reasons for such breach or for leaving the house unoccupied, declare that the deposit and all or any moneys paid by the grantee shall be forfeited to the State and may also resume the grant and re-enter on the land or any part thereof. On such resumption and re-entry, the land or portion thereof with any building thereon shall vest absolutely in the State and the grantee shall not be entitled to any compensation whatever for the land or any improvement thereto or any building on the land.

(ii) In the event of the land ceasing to be in possession or ownership of the grantee or his legal heirs, all moneys whether by way of deposit or otherwise paid to State in respect of the land granted shall be liable to be forfeited to State and State or any officer authorized by the State may resume the grant and re-enter on the land or any part thereof.

G.O. Ms. 116, Dev., d. 9-1-48.
B.P. Press 7, d. 11-3-48.

(13) That the State reserve to themselves the right to all sandalwood trees and their branches and roots which exist at the time of assignment (which are described in the schedule attached) as well as those which may grow subsequently on the lands granted and the State shall be at liberty to cut or dig out any such trees or their roots and branches and remove them from the land in question and dispose of them at their pleasure. The grantee shall not be entitled to cut or remove them or cause them to be cut or removed without the permission of the Collector of the district.

(14) That the grantee shall take all reasonable measures to the satisfaction of the Collector of the district for the protection of the sandalwood trees from theft or damage and for the careful protection of the immature trees growing on the land.

(15) That the grantee shall take steps to see that the marks made by the officers of the State on the sandalwood trees are preserved and are not tampered with.

(16) That in the event of the infringement of or failure to observe, any of the conditions (13), (14) or (15) mentioned above, the grantee shall pay to the State such compensation as is determined by the Collector of the district for any loss or damage caused by such infringement or failure on his

APPX. IV. part. The State shall also be at liberty to cancel the grant and re-enter on the land and the whole land shall thereupon vest absolutely in the State. In that case, the grantee shall not be entitled to any compensation whatever.

Note.—When lands are granted in the districts noted below, conditions (13) to (16) above relating to the reservation of sandalwood trees should be scored out :—

Chingleput. Madras Tanjore.

G.O. Rt. 161, Rev., d. 15-3-57.

G.O. Ms. 2065, Rev., d. 17-5-57.

B.P. Press 138, d. 13-12-41.

G.O. Ms. 2515, I.L.C., d. 29-7-57.

E. REGISTER.

Section A.

District. Village.

Taluk. Hamlet.

Number and date of award. Reference : R. Dis. No.

Area acquired. S. No. Extent.

Extent set apart for communal purposes. S. No. Extent.

Extent of land assigned as house-sites. S. No. Extent.

Number of sites aligned.

Total cost of acquisition. Rs.

Cost of land set apart for the common use of the villagers. Rs.

Total cost of house-sites. Rs.

Portion of cost borne by Government. Rs.

Portion of cost paid by grantees as initial deposit.

Portion of cost to be paid by grantees but advanced to them by Government. Rs.

Number of year in which advance is to be recovered.

Section B.

Note.—For accounts of individuals, *see* following pages.

Name of grantee.

Site No. Extent.

RS.

Amount of advance taken by him from Government.

Number of years allowed for repayment of advance.

Amount of annual instalment due from him on a system of equated payments in which the annual payment will include principal and interest.

Collections.

Year.	Amount due.	Amounts collected with dates of collection.
First year		
Second year		
Third year		
Fourth year		
Fifth year		

FORM I.

Remittance by village officers of village, taluk, of advances for the acquisition of house-sites to members of communities eligible for the ameliorative measures undertaken by the Harijan Welfare department and landless labourers of other communities. Appx. 17

1 Date.

2 By whom paid.

3 Particulars—

(i) Award number and
(ii) S. No.
(iii) Site number.
(iv) Name of grantee.

4 Particulars of amount collected :—

On account of sums fallen due—
(i) Arrear.
(ii) Current.

On account of sums not fallen due—

5 Total.

6 Remarks.

Signature of village headman.
Signature of village accountant.

Total in words.
Chalan number.
Initials of the Head Accountant.

FORM I-A.

Statement showing repayments of advances for the acquisition of house-sites for members of communities eligible for the ameliorative measures undertaken by the Harijan Welfare department and landless labourers of other communities in taluk.

1 Date.

2 Chalan number.

3 Village.

4 S. No.

5 Number and date of award.

6 On account of sums that have become due—
(i) Arrear.
(ii) Current.

7 On account of sums not fallen due.

8 Total.

9 Remarks.

FORM II.

Statement showing demand, collection and balance of advances for the acquisition of house-sites for the members of communities eligible for the ameliorative measures undertaken by the Harijan Welfare department and landless labourers of other communities in the taluk of for the month of 19 .

Particulars.	Principal.	Interest.	Remarks—Particulars of balance. Item.	Amount.
	RS.	RS.		RS.
Demand in the year			Collected since closing the Treasury account.	
Collections in the month ..			Covered by distraint or land attachment.	
Collections up to the month ..			Under correspondence.	
Total ..			Total ..	

APPX. IV.

Particulars.	Principals.	Interest.
	RS.	RS.
Overpayment in the month ..		
Overpayment up to the month.		
Total ..		
Net collection ..		
Balance ..		

FORM II-A.

Demand, collection and balance—Village Posting Register.

1 Serial number.
2 Particulars—
Name of purchaser.
S. No.
3 Amount due.
4 Amount paid.
5 Overpayment.
6 Balance.
7 Remarks.

FORM II-B.

Demand, collection and balance—Taluk posting register.

1 Serial number.
2 Particulars—
Name of village.
Number and date of award.
3 Amount due.
4 Amount paid.
5 Overpayment.
6 Balance.
7 Remarks.

FORM III.

Plus and minus memorandum of special advances for the acquisition of house-sites for the members of communities eligible for the ameliorative measures undertaken by the Harijan Welfare department and landless labourers of other communities for the month of 19 .

1 Taluk.
2 Balance at the beginning of the month.
3 Advances in the month.
4 Total.
5 Collection—
Up to the month.
In the month.
6 Total.
7 Balance.
8 Remarks.

Particulars of disbursements under special advances in the month of 19 Appx. IV.

1 Date.

2 Voucher Number.

3 Name of payee.

4 On what account and award number and date of compensation.

5 Amount.

6 Remarks.

G.O. Ms. 529, P.W. (Lab.), d. 19-2-42.
B.P. Press, 16, d. 21-3-42.
G.O. Ms. 2644, I.L. & C., d. 27-9-54.
G.O. Ms. 2515, I.L. & C., d. 29-7-57.

APPENDIX V.

Revised Land Acquisition Rules.

Preamble.—The term " Agent " includes Engineers-in-chief directly under the Railway Board.

The term " Department " includes " Branch " or " Service ".

The term " Head of Department " includes " Principal Officers ".

Responsibility.—The Railway Administration is responsible for seeing—

(*a*) that it is necessary to acquire the land ;

(*b*) that the sanction of competent authority exists for the acquisition ;

(*c*) that if any departure from the rules is contemplated the specific approval of the Railway Board to such departure has been obtained ;

(*d*) that the purchase price is reasonable ;

(*e*) that a proper title to the land acquired is secured and kept, and that it is capable of accurate identifications ; and

(*f*) that the land is utilized to the best advantage.

As regards (*a*), the initial responsibility for ensuring that land is not acquired without a clear necessity therefor rests on the heads of departments concerned in respect of land required for their departments. They will be held accountable for the accuracy of the facts on which the justification for acquisition is accepted by the head of the administration. In cases of acquisition schemes for railways owned and worked by companies, who are entitled to receive land from Government free of cost, Government Inspectors will be responsible for advising the Railway Board on the actual necessity of the land for the purposes of the railway.

As regards (*d*), the ultimate responsibility rests on the Agent and the Engineering Department of the railway ; but so far as the actual valuation of the land is concerned, their chief responsibility lies in obtaining from the local revenue authorities as accurate an estimate as possible of the value before initiating proposals for acquisition.

As regards (*e*), the Engineering Department will be responsible (i) for the preparation of the necessary plans and estimates, (ii) for taking possession of the land when required from the revenue authorities and (iii) verifying and demarcating its boundaries and plotting them on the plans.

As regards (*f*), the Engineering Department, or the department which has custody of the land, is responsible for seeing that it is made use of to the best advantage. In particular, if a portion of the land is not immediately required for the use of railway it should be considered whether it can be leased or licensed at a proper rental to outsiders with adequate safeguards for resuming possession as and when required.

G.O. Mis. 802, Rev., d. 11-4-32. B.P. Mis. 1255, d. 21-4-32.

PRELIMINARY.

The following is an abstract of the orders issued by the Government of India and the Railway Board from time to time regarding the acquisition, transfer, relinquishment and leasing of land on railways. These rules should be observed in future on all railways, whether construc or worked by the State or by companies. Appx. V,

Note.—These Rules do not apply to land taken up for tramways.

SECTION I.

General instructions.

Land to be invariably acquired under the Act.

2. Whenever land which does not already vest in Government is required for railway purposes, it should be taken up under the Land Acquisition Act, Act I of 1894, as acquisition under the Act confers an indefeasible title. Land which is already public property and in which no interest of private persons exist, should not form the subject of proceedings under the Land Acquisition Act.*

3. (i) Private negotiation, either direct with the owner or through an agent, deputy or broker, may be entered into, prior to the initiation of proceedings under the Act, as to the price to be paid, if thereby it is considered that appreciable economy would be effected.

In such cases, however, an approximate valuation for purposes of comparison must be obtained from the local revenue authority before any settlement is arrived at. The terms of the settlement should be communicated to the local revenue authority or other officer specially appointed to acquire the land who, though not bound to do so, will no doubt ordinarily accept in his award the price thus agreed upon. *The actual acquisition will in all cases be effected under the Land Acquisition Act.*

(ii) In adopting the above procedure, the desirability of which should always be considered in the case of land in the neighbourhood of large cities or other congested areas, it is essential that it should be made clear whether the price agreed upon does or does not include the additional 15 per cent for compensation due under section 23 (2) of the Act.

The terms of settlement should therefore be in the form of an agreement that the owner is willing to sell for a specified amount plus 15 per cent for compensation, the sum of the two being the actual price agreed upon.

(iii) If an agent or broker is employed, the payment of any fee to him will require the sanction of the Railway Board. Such fee should not ordinarily be a percentage of the price eventually agreed upon and, if sanctioned and paid, should be treated as part of the cost of acquiring the land.

G.O. Mis. 802, d. 11-4-32. B.P. Mis. 1255, d. 21-4-32.

Arrangements for acquisition will be made by the Local Government.

4. All arrangements for the acquisition of land required by a railway will be made by the Local Government or Administration, as the case may be, of the province in which the land required is situated. The local procedure to be followed and the information to be furnished for the purposes of acquisition should therefore be in conformity with the instructions prescribed by each Local Government or Administration.

* For original orders, *see* Government of India, Public Works Department, letter No. 1780, R.C., dated 12th Nov. 1904, printed as Appendix H.

Appx. V.

All land should be taken up as for permanent occupation.

5. All land for railway purposes, whether acquired temporarily or permanently, will ordinarily be taken up in the first instance as for permanent occupation and valued accordingly. In special circumstances, however, where land is needed for temporary purposes and where there is little likelihood of the land on the expiration of the term of temporary occupation being rendered unfit to be used for the purpose for which it had been utilized immediately before such occupation, temporarily acquisition may be undertaken under section 35 of the Land Acquisition Act (Act I of 1894) provided that such procedure would result in economy. Waste or arable land can be occupied temporarily only for a period not exceeding three years from the commencement of occupation—vide section 35 (1) of the Land Acquisition Act (No. I of 1894).

Classification of railway land.

6. With a view, however, to determine what the disposition of the land will probably be on the completion of the work for which it had been acquired, the following classification will be adopted :—

(a) *Railways constructed by Government or by companies not entitled to receive land free of cost under their contracts.*

On these railways land is divided into two classes, viz.—

(i) Permanent land.
(ii) Temporary land.

(i) *Permanent land.*—Land which will be required permanently after the railway is open for traffic and the work of construction is complete. Under this head will be included all land to be occupied by the formation of the permanent line of railway with side slopes of banks and cuttings, and the berms connected therewith; catch-water drains and burrow pits or such parts of them as it is necessary to retain; the entrances to tunnels and shafts belonging to them; the sites of bridges, and protection or training works; station yards; landing places for railway ferries; ground to be occupied by works belonging to the railway such as gas works, arrangement for water-supply, septic tanks, collecting pits, filter beds and pumping installations, etc.; ground for the storage, manufacture or acquisition of materials; land for sanitary zones, cemeteries, churches, plantations, gardens and recreation grounds; sites for stations, offices, workshops, dwelling houses and other buildings required for the purpose of the railway, or the accommodation of the staff, with the grounds, yards, roads, etc., appertaining thereto.

Under this head will also be classed land outside the permanent railway boundary, which will be required for the permanent diversion of roads or rivers, or for other works incidental to the construction of the railway, which are made for public purposes and will not on completion of the works be maintained by the railway authorities.

(ii) *Temporary land.*—All land which is acquired for temporary purposes only and which is relinquished after the work of construction is complete.

(b) *Railways constructed by companies who receive land free of cost.*

On railways constructed by companies which are entitled to receive and free of cost, land is divided into four classes, viz. :—

(i) Class "A" land.
(ii) Class "B" land.
(iii) Class "C" land.
(iv) Class "D" land.

(i) *Class "A" land.*—Land which the company receives for permanent occupation free of charge under its contract or other arrangement with Government. Under this head is included all land required for works of the railway which are permanent and will be necessary for the line when opened, such as land for the formation of the permanent line with side slopes, berms, catch-water drains, etc. The occupation of this land by the company will be so far permanent that it will cease only when the contract is terminated or surrendered and the whole lapses to Government.

(ii) *Class "B" land.*—Land which the Railway Company receives for temporary occupation free of charge under its contract or other arrangement with Government. Under this head is included all land essential for the execution of the permanent works of the railway but not required after the completion of the line in part or whole, such as land for spoil banks, for extra excavation to make banks, and for the storage of material held in stock by the Railway Company pending the construction of the line or their despatch to the works.

(iii) *Class "C" land.*—Land which the Railway Company has to provide at its own cost. Under this head is included land which is required for the provision or preparation of materials for purposes contingent on the actual execution of the works on the line, or for other miscellaneous objects which the Government recognizes as falling legitimately within the scope of the Railway Company's operations, though not giving the company a claim to the provision of land free of charge.

(iv) *Class "D" land.*—Land which, though required in consequence of the works of a railway, does not come directly into the occupation of the Railway Company; such land will be provided by Government free of cost. Under this head is classed land required *outside* the railway boundary for the diversion of roads or rivers, and for the construction of roads which are made for public purposes and which will not afterwards be maintained by the company.

7. The classification above generally applies to Railway Companies that receive land free of cost. In some cases, however, where the conditions under which Railway Companies receive land free of cost vary according to the terms of their respective contracts (or other arrangements), it will be necessary to modify the classification to suit such conditions. For instance, where a railway is entitled to receive land referred to in Class "C" above, free of cost from Government, such land should be shown under Class "A" or "B" according as the land is required permanently or temporarily.

When the transfer of land from one class to another is contemplated, the approval of the Railway Board should be applied for to such transfer only when it involves a charge against State funds.

Railways under the administrative control of a Local Government or Administration.

8. In the case of lines which, for administrative purposes, are under the control of a Local Government or Administration, the Railway Administration concerned should invariably, unless Imperial funds are involved, address such Local Government or Administration direct on matters pertaining to the acquisition of land. Should any technical advice be required by a Local Government or Administration in connexion with the acquisition of land for such lines, the assistance of the Government Inspector of Railways of the circle concerned may be taken.

Appx. V

Section II.

Procedure for acquisition preliminary to putting the Land Acquisition Act into force.

Particulars to be specified in the application for land.

9. Whenever land is required for railway purposes, an application should first be made direct to the Revenue Officer-in-charge of the district in which the land is situated for a statement of the value of the land and a draft declaration for acquiring it. The application shall set forth clearly the purpose for which the land is required, and shall be accompanied by the following documents specifying the extent of the land and such other particulars necessary for its identification :—

(*a*) A complete set of land plans prepared in accordance with the instructions given hereafter.

(*b*) A complete set of schedules prepared in the form given in Appendix B or in such other form as may be prescribed by each Local Government or Administration to suit local conditions.

10. When the work of acquisition extends to more than one district but lies within one division, application should be made to the Commissioner, when in more than one division to the Chief Revenue Authority of the province.*

11. For the better identification of land in cases where the areas to be taken up are extensive, the following further information should also be furnished by a Railway Administration to the Local Government or Administration in applying for the acquisition of land :—

(*a*) The name of the railway.

(*b*) The copy of the order of Government, when necessary, sanctioning the construction of the railway.

(*c*) A brief general description of the route to be followed by the railway with the names of the more important villages or towns through or near which it is intended that the railway should pass.

(*d*) A list of the civil district, in which the land will be required for the purposes of the railway with the approximate area in acres of the land required in each.

(*e*) For each civil district, the name or description of the place or places at which the land plans for the district will be available for inspection by the public.

Note.—Every endeavour should be made to avoid interference with religious edifices, burial grounds or other places or objects which may be considered as sacred, and if the land applied for contains religious edifices, etc., the fact must be specially noted in the application.

With the statement specified above should also be sent for the information of the Local Government or Administration a general index plan to a scale o one mile to one inch showing the route to be followed by the railway.

12. Should any land be required for temporary occupation only under section 35 of Act I of 1894, it should form the subject of a separate application in which the fact that permanent acquisition is not required should be clearly stated.

* Vide Government of India, Public Works Department Circular No. XI, Railways dated 21st September 1895 (Appendix K).

13. On receipt from the Railway Administration of the application for land drawn up in accordance with the procedure prescribed above, the responsible Revenue Official will forward to the Railway Administration a statement showing the nearest approximate cost of the land which can be obtained without a detailed valuation of the property and also a draft declaration under section 6 of the Land Acquisition Act on which it should be recorded that there is no objection to the acquisition of the land or any general or specific grounds.* In the case of large projects, in lieu of the statement prescribed above, the Revenue Authorities will furnish to the Railway Administration *data* in the following specimen form showing the estimated average value per acre as near as may be for the different classes of land in the localities affected by the projects. Appx. V.

Estimate preliminary to putting Land Acquisition Act into force.

Miles.	Rupees per acre.			
	Cultivated.		Unculti-vated.	Remarks.
	Irrigated.	Unirrigated.		
3—15	80	30	10	
15—17	300	120	30	*Town lands of Rampur.*
17—27	35	25	5	

In no circumstances should the local Revenue Authorities be called upon to furnish *data*, even rough approximations, unless they are supplied with a sketch (or detailed plans if such have already been prepared) containing the particulars required by paragraph 3 of the Government of India, Public Works Department, Circular No. XI, Railways, dated 21st September 1895 (vide Appendix K) as a departure from the strict observance of this requirement throws upon the Revenue Authorities undue responsibility for the adequacy of the preliminary estimates.

14. When the estimated value of the land exceeds Rs. 25,000 in any one district or one lakh in any division it is necessary that the *data* should be countersigned by the Commissioner † of the division in which the land is situated or the Chief Revenue Authority of the province respectively.

15. The statement or *data* will be taken as representing the value of the land, inclusive of tenants' rights but exclusive of the value of houses, trees, standing crops, etc., on the land, the approximate cost of which shoud be separately furnished by the Revenue Authorities. In addition to the *data* prescribed above, the Revenue Authorities should also give a rough estimate of the amount of such further items (if any) as are likely to be included in an award based on section 23 (1) of the Land Acquisition Act, including, when necessary, an estimate of the capitalized value of the abatement of land revenue or of payments to be made direct to the proprietors of the area acquired in lieu

* The procedure adopted by the Revenue Authorities and Accounts Officers in connexion with this work is laid down in Government of India, Finance Department, Resolution No. 1580, dated the 29th June 1886.

† In provinces like Madras where there are no Commissioners of divisions, the countersignature of the Collector of a district will be sufficient.

Appx. V. of abatement of land revenue and charges for establishment and contingencies. Special care should be taken by the Revenue Authorities in furnishing as accurate *data* as possible, so as to prevent inaccurate estimating. With this information in hand, the Railway Administration should proceed to frame an estimate * of the total cost of acquisition in detail, including (in cases where voluntary surrender is not probable) the additional 15 per cent laid down in section 23 (2) of the Land Acquisition Act on the market value of the land under section 23 (1), clause 1 of that Act.

In doing so, it will be found generally convenient to adopt the following form :—

		RS.			RS.
Value of land	waste		Value of	(*a*) Masonry houses	
	arable			(*b*) Thatched houses	
	homestead			(*c*) Trees	
	bazaar			(*d*) Standing crops	

Add additional compensation at 15 per cent under section 23 (2) of the Act on the market value of the land, including houses, trees and crops.

Add market value of Government land taken up.
,, damages under clauses 2 to 6 of section 23 (1) of the Act.
,, capitalized value of the Government revenue (when necessary).
,, cost of establishment (when necessary).
,, contingencies.

16. Should the estimate so framed be within the powers of the Railway Administration to sanction and there be no objection to the acquisition of the land on the part of the Revenue Authorities, the Agent or officer duly empowered to sanction the estimate will then accord sanction and allot the necessary funds and forward the estimate duly countersigned by the Chief Auditor of Accounts or the Government Examiner of Accounts, as the case may be, together with the draft declaration and duly signed plans and schedules to the Local Government or Administration who will take the necessary steps for the acquisition of the land.

If the sanction of the Railway Board is necessary to the estimated cost of the land, the Railway Administration should apply for and obtain that sanction before applying to the Local Government or Administration for the acquisition of the land.

When it is decided to make a reduction in the extent of land which the Local Government has already been asked to arrange to acquire prompt warning should be given to them to take steps to modify the declaration already issued, or to make necessary withdrawal from acquisition.

G.O. Mis. 578, d. 5-3-35. B.P. Press 30, d. 25-3-35.

17. The cost of land forms an integral part of the cost of a work; accordingly in determining the powers of a Railway Administration to sanction a work, the cost of such work should be taken as a whole inclusive of that of the land, irrespective of the source from which the cost of the land is met.

* As in the majority of reports and estimates submitted by Railway Administrations it has been noticed that there is no indication to show whether land estimates have been prepared from *data* furnished by the Revenue Authorities, it will be convenient if in future a remark is made in the report or estimate to this effect.

18. As a general rule land may not be acquired except in connexion with a duly sanctioned work, but this rule does not debar the acquisition of land for railway purposes, such as sanitary zones, which are unconnected with any particular work. [a] Where any third party's right of way in the form of a path or road has been permanently obstructed by the railway, either by the land having been acquired or otherwise, unlimited powers are delegated to the Agent for the acquisition of land to restore the right of way on another site. [a] Appx. V.

G.O. 1893, Rev., d. 14-9-29. [a] B.P. Mis. 2888, d, 25-9-29.

19. In case of urgency, Railway Administrations are empowered to depart from the ordinary rule stated in the previous paragraph and sanction the acquisition of land prior to the preparation and sanction of estimates either for the work or the land, provided the total probable cost of the work is within the power of the Railway Administration to sanction. Where it is anticipated that the estimated cost of the land or the work will exceed the powers of sanction of the Railway Administration, the reasons for urgency of acquisition and brief particulars of the work for which it is required together with information of the probable cost of the land and of the work should be reported to the Railway Board, whose sanction to the acquisition of the land should be applied for.

Procedure in the case of lands required by Railway Companies who are entitled to land free of cost under the terms of their contract and who construct and work their own lines.

20. In the case of Railway Companies, who are entitled to receive land free of cost from Government and who construct and work their own lines, land plans and schedules in duplicate of the land required, drawn up in accordance with the instructions given hereafter, should be submitted in future by the Agent of the Railway to the Government Inspector of the circle for countersignature before application is made to the Local Government or Administration concerned for its acquisition. The Government Inspector of Railways, on approving of the proposal, will countersign and return the land plans and schedules to the Railway Administration, such countersignature to signify not that the Government Inspector of Railways accepts the correctness of the land plans and schedules (for which the Agents themselves are responsible) but that he is satisfied that the land applied for is actually required for railway purposes. The estimates of the cost of such land should be submitted in full detail and countersigned by the Chief Auditor or Government Examiner of Accounts, as the case may be, to the Government Inspector of Railways for sanction simultaneously with the land plans and schedules in cases where the cost of the work for which the land is required is within the powers * of the Railway Administration to sanction or is within the limit of the provision made for land in the sanctioned project estimate. In all other cases, the detailed estimate of cost should be submitted for the sanction of the Railway Board together with the estimate of the cost of the work accompanied by one set of land plans and schedules duly countersigned by the Government Inspector of Railways of the circle.

rocedure in the case of branch lines to be constructed and worked by main line administrations.

21. In the case of land required for branch lines or District Board Railways to be constructed and worked by main line administrations on behalf of the companies or district boards owning the branch lines, there will be no need to submit plans and schedules to the Government Inspector of Railways of the circle; it will suffice if land plans and schedules are contersigned by the Agent of the main line prior to the Revenue

* Vide Railway Board's Circular No. 2149, R.C., dated 22nd July 1909.

Appx. V. Authorities being addressed. It will also rest with the Agent of the main line to accord sanction to detailed estimates of the cost of land in such cases within the provision made for land in the sanctioned project estimate, under the head "11. Subsidized Companies—Land" and in the case of land required for open line works on such branch lines or District Board Railways, besides countersigning the plans and schedules, the Agent of the main line will also sanction land estimates debitable to "11. Subsidized Companies—Land", provided the total estimates for the work (including cost of land) is within his powers of sanction, or refer to the Railway Board if the total is beyond his powers.

Where land is granted free of cost, Government undertake to secure to the railway only empty possession.

22. Where land is acquired by Government and made over free of cost to a Railway Company for the construction of a railway, the Railway Company in the absence of any express stipulation to the contrary are entitled to dispose of, or use for the purpose of the railway any material, trees, buildings or other property that may be on the land when it is handed over to them, but Government are entitled before handing over the land to dispose of, or stipulate for the disposal of, any such material, trees, building, etc., which they may have been obliged to acquire with the land and to apply the sale-proceeds in reduction of the cost of acquisition. Further, it is the business of the Railway Company to clear the land of all obstacles or obstructions and prepare it for the construction of the railway, Government undertaking to secure to them empty possession only free of encumbrances.*

SECTION III.

Procedure after the Act is put into force.

After publication of declaration.

23. After the publication of the declaration under section 6 of the Land Acquisition Act, the Local Government or Administration will direct the Collector, or other officer specially appointed for the purpose, to proceed to acquire the land in the manner indicated in the Land Acquisition Act, and all subsequent proceedings will be taken by the Local Government or Administration. When the awards have been announced, the Railway Administration may enter into possession of the land, but before doing so the authority of the Land Acquisition Officer to its occupation should be obtained. When possession is taken, the acquisition is completed and the land then vests absolutely in Government. Up to the moment of taking possession under the Act, Government is at liberty to withdraw from the acquisition but not afterwards. It should be noted that withdrawal from acquisition entails liability for payment of compensation for any damage suffered by the owner in consequence of the notice or any proceedings thereunder [section 48 (2) of the Land Acquisition Act, No. I of 1894].

Valuation for purposes of the award.

24. A Land Acquisition Officer in an enquiry and award under section 11 of the Land Acquisition Act shall give notice to the Railway Administration or their chief local representative of the day on which the inquiry is to be held and shall take into consideration any representation which the Railway Administration or their chief local representative may make whether orally

* Vide Government of India, Public Works Department, Circular No. 55, dated 29th June 1861.

or by letter.* Also before finally making the award, the Land Acquisition Officer will allow the Railway Authorities an opportunity of appearing in person or by agent and of producing evidence as to the value of the land. Railway Administrations are desired to take advantage of these opportunities for representing their views and protecting their interests. Further, in order to protect the interests of Government in cases where land is granted free of cost to a railway, it is incumbent on the Collector of the district, or should he himself not be making the award, the Land Acquisition Officer so authorized, to refer to the Government Inspector of Railways of the circle or the Agent of the Railway Administration or his representative or (vide paragraphs 20 and 21 above), through the Collector of the district, all cases in which the awards are likely to exceed the original estimates by more than 10 per cent or by more than Rs. 10,000. The Government Inspector or the Agent of the Railway will then decide whether it is advisable to be present, and if so, he will inform the Collector or the Land Acquisition Officer (through the Collector) to that effect within one month of the date of the receipt of the reference. If no such intimation is received by that date, it should be assumed by the Collector that the Government Inspector or the Agent does not want to be present and there is no objection to the award being then made. It is very important that the procedure herein above laid down is taken advantage of in order that the interests of the purchaser may be adequately represented. Appx. V.

If the award as finally settled, after objections have been heard in the course of proceedings, exceeds by more than 20 per cent of the original estimate of the cost of acquisition or if the evidence as to the value is conflicting and such as to indicate a reasonable probability that the civil court will award a sum exceeding that estimate, the Land Acquisition Officer should defer the award and inform the Railway Administration concerned of the facts. Further action will then be suspended until the Railway Administration has decided whether acquisition should be proceeded with or not. Before communicating such decision, the Railway Administration should, when the excess is likely to exceed their powers of sanction, submit a report of the matter for the orders of the Railway Board, explaining at the same time whether the acquisition of the land is necessary or whether some plot of land other than that originally contemplated may not be taken up instead. It is incumbent on Railway Administrations to endeavour to avoid the location of a railway line upon land, the acquisition of which will entail either unnecessary expenditure on Government, or annoyance to the owners, if the object sought can be equally well attained by a slight alteration of the alignment or in some other manner.

Possession of the land will be made over by the local revenue authority or his representative, and will be taken over by a representative, not lower in status than an Assistant Engineer of the Engineering Department of the Railway.

The area on the ground will be carefully checked with that on the plan and, if found correct, the permanent boundary marks will be affixed as soon as possible thereafter.

A certificate, at least in duplicate, to the effect that the land has been on that day correctly made and taken over, will then be signed by both parties and recorded by the Revenue and Railway Authorities respectively.

G.O. Mis 802, d. 11-4-32. B.P. Mis. 1255, d. 21-4-32.

---

* Vide Government of India, Revenue and Agricultural Department, Circular No. 9-292-I, dated 28th June 1906.

Appx. V.

Revised estimates.

25. If during the proceedings under section 11 of the Land Acquisition Act, it becomes apparent to the Land Acquisition Officer that the cost of the land will exceed the amount of the sanctioned estimate, he should report the excess to the Railway Administration concerned and at the same time furnish fresh data for the revision of the estimate. The Railway Administration will then frame a revised estimate of cost in full detail and, if the excess is within the powers delegated to the Railway Administration, sanction the estimate and allot the further funds necessary. Should the revised estimate however require the sanction of the Railway Board, such sanction should be applied for, and in doing so, an explanation of the cause of excess should be furnished where it exceeds the initial estimate by more than 10 per cent. It should be noted that the countersignature of the responsible Revenue Authorities should be obtained to the revised estimate as in the case of the original estimates.

Completion reports.

26. When acquisition has been finally completed and awards made, a completion report showing the actual expenditure incurred on the acquisition should in the case of lines under construction and of open line works costing Rs. 18 lakhs and over, be submitted to the Railway Board for sanction in accordance with Railway Board's Circular No. 432-C-4374, dated 27th November 1914, along with the completion report to the works for which the land has been acquired. These completion reports should be drawn up in detail by the Railway Administration on the awards actually made.

27. As regards land taken up for open line works costing less than Rs. 18 lakhs, no completion report need be submitted to the Railway Board unless it is found that expenditure has been incurred over the original or revised estimate in excess of the powers of the Railway Administration.

SECTION IV.

Custody of Land.

28. It is the duty of every Railway Administration to preserve unimpaired the title to all land in its occupation and to keep it free from encroachment. Where, however, the management of any land has been accepted by a Local Government (see section V) this duty will devolve on that authority during the period of such management.

29. Should litigation be involved in respect of any land held by a Company-managed line, and should the administration of that railway be advised that it is necessary for the Secretary of State to be cited as a co-plaintiff, sanction to do so must be obtained from the Railway Board. In such cases, where the interests of the Secretary of State and the Railway Company are the same, there is no objection to both being represented by the same legal adviser or advisers. Where these latter are those of the Railway Administration a special order by the Government of India appointing an officer of the railway to act on behalf of the Secretary of State and to sign the written statement and verify its contents, etc., will be necessary. Where the Local Government is asked to intervene, the costs incurred by them will be borne by the Railway Company.

Officers of State-managed railways are competent to act on behalf of the Secretary of State agreeably to the rules in force for the institution of suits by or against the Secretary of State.

Litigation should, however, seldom be necessary if accurate land plans aat maintained and boundaries adequately demarcated and verified therewith er regular intervals.

30. Agents will be responsible for drawing up supplementary rules to ensure that, in respect of land other than that managed by a Local Government, (*a*) records of title are safely preserved and kept up to date; (*b*) that boundaries are periodically inspected; and (*c*) that any encroachments found are promptly reported and dealt with. Appx. V.

As regards (*b*) and (*c*) these duties should ordinarily devolve on the authority entrusted with the management of the land; though it may be desirable to reserve the actual institution of all ejectment suit to one authority (preferably the Engineering Department).

No legal proceedings in this connexion may be entered upon without the sanction of the Agent.

SECTION V.

Management of land.

31. All railway land should be managed on commercial lines, and each Railway Administration should endeavour to develop the resources of, and put to profitable use, any areas in its occupation which, though not eligible for relinquishment (see section VI) are lying idle and are suitable for the purpose.

Such land is referred to hereinafter as "available".

32. *Terms of management.*—The management of land entails—

(i) The custody thereof (see section IV).

(ii) The utilization to the best advantage of such portions of it as are available; and responsibility for all arrangements in connexion with their leasing or licensing (e.g., selection of tenant, placing him in possession, fixation of rental, maintenance of the necessary registers and plans, enforcement of the terms of agreement, etc.).

(iii) Justifying, if called upon to do so, its continued retention by the railway; or, alternatively, instituting proposals for its relinquishment.

33. The Engineering, or any other department of the railway decided on by the Agent at his discretion, will be responsible to him for the management on these terms of all land in the occupation of the railway. The management of available land may be entrusted also to (*a*) a Local Government, or (*b*) Station Committees.

As regards (*a*), a Local Government may be offered the management of such areas of available land as it may agree to accept and, if necessary, may be permitted to retain a percentage (to be agreed upon between the Railway Administration and the Local Government) of the gross receipts accruing from the lease, etc., of the land.

In such cases the following conditions will apply:—

(i) That such transfer conveys no power to sell, exchange or give away the land without the sanction of the Railway Administration (i.e., the land will still remain in the "occupation" of the Government of India); and that the latter may impose such restrictions as it may consider necessary on the use or occupation of the land so entrusted.

(ii) That the Railway Administration reserves the right to withdraw such land, without compensation in the case of reasonable notice being given and on payment of a fair price if resumption is made at such short notice as to preclude the gathering of any crop, indigenous to the locality, sown thereon.

Appx. V. (iii) Receipts, less any percentage that may be agreed upon, will be credited to the Railway Taxes, which would be leviable on the land were it retained under the management of the Railway Administration, will continue to be a charge on the Railway.

(iv) That on the resumption of the land by the Railway Administration or if under relinquishment, on its sale, it shall be handed over with a clear title, any steps necessary to preserve such title being taken by the Local Government on behalf of the Secretary of State.

As regards (*b*), Station Committees may, at the discretion of the Agent and on terms to be prescribed by him, be given the management of all or any portion of the land under their jurisdiction.

Land made over for management under (*a*) or (*b*) above should be properly demarcated, and accompanied by the necessary plans.

34. *Method of management.*—To enable management to be conducted on commercial lines, Railway Administrations are permitted to grant to outsiders or other departments, under a lease or licence, rights and facilities in respect of available land for such purposes, whether or not connected with railway working, as they may deem suitable.

The leasing or licensing of available land agreeably to these rules, for purposes connected with the working of the railway (e.g., Bulk Oil Installations, Warehouses, Wharfs or other premises for storing goods on receipt from the railway after arrival or before being made over to the railway for despatch; Shops for Station Vendors, etc., etc.) does not require a reference to a Local Government or other authority; but, in the case of land leased or licensed for other purposes, the Local Government or other authority concerned should be consulted whenever the contingent circumstances are such as to render it relevant or advisable, particularly if the alienation is of a quasi-permanent nature.

The leasing or licensing of railway land for religious or educational purposes will require the sanction of the Railway Board.

In addition to the lease or licence of land itself, rights pertaining thereto, such as grass-cutting, grazing, fruit, fishing, mooring, etc., may be let out.

35. The method by which land is managed by a Local Government will be decided by that authority, subject only to the conditions on which such management is undertaken.

36. *Lease or Licence Agreements.*—A lease presents certain difficulties, in that there is a danger of accrual of occupancy rights, and its execution on behalf of the Secretary of State can be carried out only by the authority competent to do so. Nevertheless, if the added security of tenure given thereby is likely to result in an appreciably enhanced rental, its employment should be seriously considered. In the case of a Company-managed line, all agreements will require to be executed by the Secretary, Railway Board.

A licence, on the other hand, merely confers on the licensee the right subject to certain restrictions, to *use* the allotted land for the purpose of the operations specified, and creates no tenancy therein. Further, it may be executed by any Railway Administration, whether of a State or a Company managed line.

It is not possible to detail all the terms to be embodied in the various forms of agreement; but, broadly speaking, they should be such as to ensure—

(i) That the interests of the Government of India and of the Railway Administration are adequately safeguarded.

(ii) That the rental obtained will provide a margin of profit. (In the case of railway staff, however, the cultivation of small plots of land, or enjoyment of usufruct may be permitted free of charge.) Appx. V

Plots of vacant railway land may also be licensed to railway employees or to such non-railway organizations as provide facilities to railway employees for the purpose of playing games and at a nominal rent, where necessary, provided that it is made clear in the agreement in each case that the land can be resumed at short notice, not exceeding a month, without compensation for any buildings erected or improvements effected thereon.

G.O. Ms. 1523, d. 14-7-36.

B.P. 100, Press, d. 8-8-36.

(iii) That, except as provided in clause (ii) of the conditions on which the management of land may be entrusted to a Local Government, no compensation shall be payable on resumption; and that, except in the case of A.F.I. Armouries and S.S.I.'s quarters or under the general or specific orders of the Railway Board, the Railway Administration shall not be committed (though they may retain an option) to the purchase, on resumption of the land, of buildings or structures erected thereon.

A sample licence form for Bulk Oil Depots, is given in Appendix D but other forms may be adopted to suit requirements *provided that, whether for a lease or a licence they are drafted under competent legal advice.*

In the case of land rented to another Railway Administration or a Department of the Government of India or Local Government, an unstamped agreement, embodying the terms and signed by authorized representatives of both parties, is all that is required.

The net receipts from the management of railway land should be adjusted in accounts in the following manner :—

(i) Head XII "Subsidized Companies," when the cost of land is not debited to the capital account of the railway but is met by Government.

(ii) "Railway Revenue" of the undertaking in the case of railways whose capital account is charged with the cost of the land.

In the case of the Tirhoot Railway, whose Capital account, though bearing the cost of land, does not include the capitalized value of land revenue abated, the net receipts realized by the Revenue authorities should be credited to 'Land-Revenue' in the Civil Department.

G.O. Ms. 244, Rev., d. 7-2-34.

B.P. Press 34, d. 2-3-34.

SECTION VI.

Relinquishment of land.

37. The instructions in this section are subsidiary to the Secretary of State for India's Land Transfer Rules as promulgated with the Government of India, Finance Department Resolution No. D. 3428-A., dated 10th December 1925 (Appendix L).

The general position in regard to all Crown lands in India is that the Government of India has the right to remain in undisturbed possession of all land in its occupation that is required for the effective discharge of duties of any one of its departments (e.g., Army Department, Commerce Department, Posts and Telegraphs Department, Railway Department, etc.).

Appx. V. Any land no longer so required is to be offered to the Local Government of the Province in which it is situate. If the latter is unwilling to purchase it on the terms prescribed in the Secretary of State's Rules, the land may be disposed of by the Government of India in such manner as it may deem suitable.

So far as railway land is concerned, the policy of the Railway Board is to limit holdings to actual requirements, present and prospective. Every Railway Administration must, therefore, be in a position to justify the retention of land occupied by them, and where unable to do so, should classify it as "eligible for relinquishment" and arrange for its disposal agreeably to the following rules.

While land is not to be retained unreasonably, it is equally not to be disposed of at prices incommensurate with its value nor surrendered free of cost.

38. In deciding whether or not a certain area is eligible for relinquishment, Railway Administrations should be guided by the consideration that land may be said (without prejudice to the absolute right of a Local Government to represent to the contrary) to be required for the effective discharge of the duties of the Government of India (Railway Department) if it falls within one or the other of the following categories:—

(*a*) Land in the active occupation of a railway, i.e., land actually occupied by the permanent works of the railway, or required for their construction maintenance or repair.

(*b*) Land not so occupied; but to the permanent alien control of which specific objections exist, i.e., land in the midst of or adjoining that in active occupation and to separate which from such area would be detrimental to railway interests.

(*c*) Land required in the interests of the health or welfare of the staff or for the safety of railway property (e.g., sanitary or fire zones, etc.).

(*d*) Land required for such future development as may properly be contemplated.

39. When it has been decided that a certain area of land is no longer required by any department of the railway and is eligible for relinquishment, the procedure will be as follows:—

(1) If the land adjoins or is in the near vicinity of land belonging to any other railway or department of the Government of India, it shall first be offered thereto.

If one of these desires to acquire it, the land shall, on the terms being agreed upon, be made over by responsible authority to an officer of that department or railway deputed for the purpose. A formal record of the transfer will be made and the Local Government advised; or if willing, the latter may be entrusted with the work of transfer.

(2) If the land is not adjacent to or in the close vicinity of that held by other railways or department of the Government of India, or though so situate, is not required by such railways or departments, it shall be offered to the Local Government. If the Local Government are willing to purchase it, it shall, on the terms being agreed upon, be made over to the officer appointed for the purpose, in the same manner *mutatis mutandis* as that in which land is taken over in acquisition (vide paragraph 24 of these rules).

(3) If the Local Government is unwilling to exercise its option, the land should be disposed of to the best advantage as follows:— Appx. V.

(*a*) The local Government may be asked to undertake the whole process of disposal, the Railway Administration merely concurring in the terms.

(*b*) If the Local Government is unwilling to undertake negotiations for sale, these should be carried out by the Railway Administration and the Local Government may be requested to carry out the final transaction on the terms arranged.

(*c*) If the Local Government is unwilling to effect even the actual transfer on behalf of the Secretary of State, a formal deed of conveyance must be drawn up by the Railway Administration (ordinarily at the expense of the purchaser), submitted to the authority competent to execute it for signature, and registered, the land being thereafter made over, by responsible authority, to the purchasers.

In any case the Local Government must be consulted as to the manner of disposal, the conditions (if any), that should be laid down for the use of the land after sale, and the extent to which (if at all) the principles of the resolutions of the Government of India in the Department of Revenue and Agriculture, No. 13-44-13, dated 30th October 1896 (*see* Appendix N), should be applied.

(4) If neither another railway nor a department of the Government of India nor the Local Government desire to acquire the land, and if no reasonable offer is forthcoming from other parties, the land should be retained by the Railway Administration and managed in accordance with the procedure laid down in section V until such time as one or the other of the above contingencies eventuate.

A Railway Administration may, at their discretion, effect an equitable exchange of land in their occupation for other land equally suited to their requirements, with or without a monetary adjustment; the method of transfer following, with the necessary changes, that prescribed for relinquishment.

No exchange of land should, however, be effected between a Railway Administration and a private party. Privately owned land should invariably be acquired under the Land Acquisition Act.

G.O. Ms. 1112, Rev., d. 25-5-46.
B.P. Press, 9, d. 4-6-46.

In regard to transfer of land to or from Military Authorities, the procedure laid down in Appendix C should be followed.

40. Should representations be made by a Local Government, either direct or through the Government of India to the effect that a certain area of railway land is not being used for the purposes originally intended and is, in addition no longer required for the effective discharge of the duties of the Government of India, the Railway Administration will, if in a position to contest the claim, advise the Local Government, or the Government of India, as the case may be, of the reasons for which it is considered that the land is still required by them or the fact that it is wanted by another railway or department of the Government of India. Otherwise the land will be considered to be eligible for relinquishment and dealt with in accordance with the rules relating thereto.

41. *Terms of relinquishment.*—The terms on which railway land may be surrendered will be—

(*a*) in the case of a Local Government, those set forth in the Secretary of State's Land Transfer Rules (*see* Appendix L);

Appx. V. (*b*) in the case of another railway or department of the Government of India, the market value of the land and buildings thereon;

(*c*) in all other cases, the highest offer which is considered reasonable: provided that in all cases conditions or restrictions of use agreed upon by both parties may be embodied; and provided also that, where the estimated value of the land exceeds Rs. 1 lakh, a prior reference shall be made to the Railway Board.

The proceeds of all railway lands relinquished, less any charges properly incurred in their disposal, will be credited as follows:—

(*a*) When the land was provided free of cost by the Government of India, to Head XII—Subsidized companies.

(*b*) In all other cases, to the Capital account of the Railway.

Note.—As in the case of acquisition, Local Government may be reimbursed the cost of *special establishment* employed in connection with relinquishment proceedings.

42. As in acquisition, the process of relinquishment is not completed until possession of the land is made over (and in no circumstances should this be done until the terms of relinquishment have been settled); and until relinquishment is complete all rights in the land continue to vest in the Government of India in the Railway Department.

After relinquishment is complete, the railway boundary marks, land plans, etc., should be adjusted accordingly.

G.O. Ms. 998, Rev., d. 6-6-33. B.P. 43, Press, d. 16-6-33.

SECTION VII.

Amount of land to be acquired.

43. In estimating for the amount of land to be taken up for a railway, care should be taken to make provision not only for the land which will be required permanently for the purposes of the open lines (such as those indicated under "Permanent Land"), but also for such land as will be required during construction only for spoil-banks, side-cuttings, quarries, stacking and preparation of material, temporary offices, workshops and quarters, and for temporary purposes generally, to be relinquished after the work is completed.

44. Amount of land to be taken up—

(*a*) For lines over which traffic is likely to develop beyond the carrying capacity of a single line within fifteen years after opening, the widths of land to be taken up should be those for a double line.

(*b*) For lines on which the traffic cannot reasonably be expected to grow beyond the carrying capacity of a single line within fifteen years of opening, the widths of land to be acquired should be those for a single line.

For the purposes above, the minimum widths of land to be taken up should be, under ordinary circumstances, those shown in the sections and tables, Appendix A. The amount of permanent land will depend upon how many, if any, of the burrow-pits are to be retained after construction is completed.

The orders of the Railway Board should be obtained before reckoning widths on basis (*a*).

45. (*Cancelled.*)

46. At station yards, the cutting or filling for the formation of the main line and sidings may sometimes be arranged for in the general levelling and improvement of the plot of ground to be permanently acquired. Where this cannot be done, provision should be made outside the proposed boundary of the station yard for such additional land as may be required for side cuttings or spoil-banks.* Special care should be taken to ensure that sufficient land is taken up at stations. This land should provide for any reasonable extension of the yard which may be expected in the future. **Appx. V.**

47. (*Cancelled.*)

48. In making provision for land for side-cuttings, the width will, under ordinary circumstances, depend upon the nature of the soil, height of bank, facilities for getting earth and other local conditions. Under special circumstances, as, for example, in the neighbourhood of large towns or where land is unusually expensive, it may be advisable to equalize the quantities for cutting and filling, and take the material for banks from the adjacent cuttings.

After a line has been opened, land is required from which earth can be dug for repairs to banks and this should always be acquired permanently.

It would not be economical to reserve land for all repairs between the bank and the original burrow-pits, because doing so would increase the lead and consequently the cost of all earth dug for construction of banks, but it is desirable to have a certain width of land from which earth can be dug for emergent repairs during or immediately after the monsoon when the burrow-pits may be full of water. Pits dug for such urgent repairs, inside the line of original burrow-pits, should not be more than 3 feet in depth and the width of land for such pits may be taken as equal to the height of bank.

The width of berm to be originally set out will therefore be 10 feet *plus* width required for urgent repairs (= height of bank). Provision has been made on this basis in the tables, Appendix A.

For 2′ 6″ gauge lines in mountainous country, special arrangements for acquisition of land for burrow-pits to provide earth for construction and maintenance must be made.

SECTION VIII.

General arrangement, side-width, etc.

Broad gauge, single and double. Metre, single and double. 2′ 6″ single.

49. For the line between stations, the general arrangements for land shown in the sections, Appendix A, are to be followed.

The width of temporary land to be acquired for burrow-pits or spoil-banks cannot be laid down, as these depend on (1) nature of soil; (2) depth of sub-soil water; (3) price of land; (4) other local considerations. But for ordinary open country, where land is not unduly expensive and excavation to a depth of 6 feet is not undesirable owing to hard soil or sub-soil water met with, the widths shown in the tables in Appendix A will be found suitable for banks of 2 to 1 slope.

50. Where practicable, low banks or shallow cuttings, the land taken up for side-cuttings or spoil-banks should be on one side of the line only. (*See* tables in Appendix A).

* In the case of station yards within or in the vicinity of large towns or other inhabited areas, it is desirable in the interests of sanitation that excavations, which are likely to prove noxious, should, as far as possible, be avoided or so arranged as to drain off completely.

Appx. V 51. In setting out land for side-cuttings, arrangements should be made for berms at suitable intervals to allow of convenient access to the line during construction and to prevent the side-cuttings ultimately developing into water courses alongside the embankment. A width of 20 feet in a length of 200 feet is generally suitable for this purpose; that is to say, each excavation would be 180 feet long and separated from the next excavation by an interval of 20 feet of undisturbed earth. The tables, Appendix A, are calculated on the above dimensions.

52. In setting out land for spoil-banks, care should be taken to leave sufficient space for arrangements for drainage and for catch-water drains, where required, to prevent surface water from the adjacent land running down the slopes of the cutting. Land required for catch-water drains *outside* the line of spoil-bank will be additional to that shown in the tables in Appendix A.

53. The sides of spoil-banks and side-cuttings next the line are to be sloped off (as shown in the sections, Appendix A) before the earthwork is finished and in setting out side-widths the distance allowed to the nearest part of the excavation or spoil-bank must be such as to preserve the specified width of strip of clear unbroken ground *after* this sloping has been carried out.

54. The slopes of sides of burrow-pits nearest the line should be the same as the slope adopted for embankments and this will generally be 2 to 1.

The slopes of the outer-side and of ends may be 1 to 1.

55. The slopes of spoil-bank should usually be 2 to 1.

56. A convenient height for spoil-bank is 5 feet and this has been adopted for tables in Appendix A.

57. In taking up land for embankments a strip 3 feet wide has been allowed for outside the outer edge of burrow-pits to enable the fence to be erected outside the burrow-pits if required.

Where the line is in cutting, the fence can be erected if required, at the outer toe of spoil-banks and no such strip is required.

58. In arranging the side-widths, the line for the fencing and for the inner edge of side-cutting of spoil-bank should be continued straight in portions as long as practicable. That is to say, these lines should follow the *average* variation in height of bank or depth of cutting over considerable lengths and not be made to zig-zag to suit the local variation at each chain peg. Where the variation in side-widths would be comparatively unimportant, it will often be advisable to neglect such local variations entirely, and take up the land in a parallel strip for some distance.

SECTION IX.

Land plans and schedules.

59. To enable the Revenue authorities to take action for the acquisition of land required for railway purposes, it is necessary * that proper plans should be made for reference by all concerned.

60. The scale for these land plans should, under ordinary circumstances, be 400 feet to 1 inch, but where this would not admit of sufficient detail being

* *See* Land Acquisition Act, 1894, sections 6 and 8.

shown with clearness, the scale should be 100 feet to 1 inch. A scale of 50 feet **Appx. V** to an inch may, however, be used in special cases for congested areas in large towns.

Notes.—(*a*) This rule may be waived when the land to be acquired forms an addition to that already previously acquired. In such cases, the plans showing additions may be drawn to the same scale as the original plans.

(*b*) In cases where the existing Revenue maps are not on a smaller scale than 400 feet to an inch they may, with the consent of the Local Government, be used for the preparation of land plans.

61. The *data* for the preparation of the land plans should generally be obtained during the progress of the survey for the location of the line, and the general instructions for the preparation of plans to accompany a project for a railway are to be held to apply also to plans required for the acquisition of the land necessary for the construction of the railway.

62. The following *additional* information is to be supplied on the land plans :—

(*a*) In the case of a railway to be constructed by Government, or by a Company under the terms of whose contract land is divided into two classes, "permanent" and "temporary", the plans made out for the first acquisition of the land will show the outer boundary line and all land, for whatever purpose it may be required, will be taken up as for permanent occupation. This land will be distinguished on the land plans by being coloured pink.

N.B.—This rule applies only to the copies of the plans made for the Revenue authorities for use on the acquisition of the land, and is not intended to prevent Engineers from marking on their office copies the intended disposition of the land as "permanent" and "temporary" or any other information which may be found convenient for use during construction, or for the purpose of the estimate.

As clearly as practicable, after the line is opened, and it is known definitely what land can conveniently be relinquished, the original plans will be corrected (or fresh plans made) showing the boundaries of the land required for permanent occupation ("Permanent Land"), and also those of the land to be relinquished ("Temporary Land"). On these latter land plans, the two classes of land are to be distinguished by colour as follows :—

Permanent land—Pink.

Temporary land—Yellow.

148467

(*b*) In the case of a railway constructed by a Company, by the terms of whose contract (or other arrangement with Government) land has to be taken up under special classes A, B, C and D or under other conditions of a like nature, the plans made out for the first acquisition of the land for use of the Revenue authorities will show the outer boundary line and will be distinguished in the land plans by being coloured pink and all land irrespective of the purpose for which required, will be taken up as for permanent occupation. The plans retained by the railway authorities, however, will show clearly the boundaries of the land to be taken up under *each* of these classes.

As early as practicable, after the line is opened, the original plans will be corrected (or fresh plans made), showing the disposition of the land as determined after the work of construction is completed.

Appx. V. On these land plans the four classes of land are to be distinguished by colour as follows :—

Class "A" land—Pink.

Class "B" land—Yellow.

Class "C" land—Purple.

Class "D" land—Green.

(*c*) Detached portions of land should be referred to some fixed point on one of the main sheets with distances and compass or other bearings, or such reference to the published maps of the neighbourhood as will ensure a ready identification of the land. A corresponding entry should in each case be made on the nearest main sheet to draw attention to the detached plots.

(*d*) On all land plans, whether made out under clause (*a*) or under clause (*b*), the position of the boundary of each class of land is to be determined by dimensions written on the plan ; these dimensions to be sufficiently complete to enable such boundaries to be, at any time, readily ascertained or verified.

(*e*) The names of villages to which the land belongs are, in each case, to be written on the plan alongside of the line indicating the village boundary. If the boundary line crosses the railway line, the names are to be repeated on the other side of the railway line, and the chainage of the crossing point noted.

(*f*) When boundary marks have been erected for the demarcation of railway land, the position and corresponding number of every detached mark must be inserted in the land plans ; and on each land plan the number of each detached mark shown thereon is to be tabulated, with the magnetic bearing and distance in feet to the next mark.

G.O. Mis. 802, d. 11-4-32. B.P. Mis. 1255, d. 21-4-32.

63. The land plans are to be made up in sets for continuous portions of land, each set being complete for a revenue district or charge of a Collector or Deputy Commissioner (or length of Indian State). On each end sheet (first and last) of every set of land plans, a sufficient portion of the continuation sheet of the next set, should be repeated, to enable the two sheets to be connected and traced together, if required. For each set of land plans the sheets are to be numbered consecutively throughout, and the name of the revenue district (or Indian State) to which the set belongs, is to be marked conspicuously on *each* sheet.

64. The schedules showing details of the land required may be drawn up in the forms numbered 1 to 3 printed in Appendix B ; these, however, are not prescribed as standard forms for adoption on all railways, as it is recognized that land tenures vary in different parts of India and that each Local Government or Administration may desire land schedules to be prepared in a form and with particulars to suit local conditions and local land revenue procedure. Railway Administrations should therefore prepare the land schedules in the form that may be required by each Local Government or Administration.

65. The minimum number of sets of land plans and schedules required is two—one for the Revenue authorities and one for the Railway.

66. Each set of land plans and schedules is to be signed by the officer immediately responsible for its preparation, and by the Chief Engineer or Engineer-in-Chief of the Railway. In the case of land required for a line already opened, the Agent will also countersign the plans and schedules before sending them on.

67. Land plans are to be kept up to date either by adding to the existing plans or substituting new sheets as may be necessary. Each such addition or alteration is to be carefully checked by the officer in immediate charge of that portion of the railway, and attested by his signature. It is to be understood that the land plans at any date should show a clear and accurate record of the land occupied by the Railway on that date. **Appx. V.**

68. A complete series of land plans for the whole line is to be kept in the office of the Chief Engineer of the railway.

SECTION X.

Adjustments of charges, establishment and capitalized abatement of land revenue.

Incidence of cost of land taken up at the cost of a railway.

69. Unless otherwise provided for under the terms of its contract, the cost of all land taken up permanently for a railway which is not entitled to receive land free of cost, is debitable to the capital account of the line irrespective of the amount involved or whether required for capital or revenue works. In the case of railways worked by the State, land required for the manufacture of materials, as also for the acquisition of materials by quarrying, mining, boring or other operations and payments for royalty, mining rights, etc., connected with the same should not be included in land estimates, but may be dealt with as laid down in paragraph 147 of the State Railway Construction Code, or if more convenient, charged off finally to the work concerned. In the case of other railways such charges are included or excluded according to the terms of the contracts.

Incidence of cost of land temporarily acquired at the cost of a railway.

The compensation payable however for land acquired temporarily under section 35 of the Land Acquisition Act I of 1894, will be chargeable to the work or purpose concerned.

Incidence of cost of land taken up for railways entitled to receive land free of cost.

70. In the case of a railway constructed by a company or other body, under the terms of whose contract (or other arrangement with Government) land is granted free of cost by Government, the cost of all land will be borne by Government and charged to the head "11. Subsidized Companies—Land" and in the case of such Indian State lines traversing British territory as are entitled to receive land free, the cost will be debited to the head "12. Miscellaneous Railway Expenditure". Where land is taken up under Classes A, B, C and D as defined in paragraph 4 (*b*) of these rules, or under other conditions of a like nature Class C land will be acquired by Government at the cost of the railway concerned.

71 to 74. *Deleted.*

Land for railway works undertaken for famine relief.

75. Where land is taken up for an unsanctioned railway which is undertaken for the purpose of affording employment to people as famine relief, all expenditure incurred in connexion with the setting out, demarcation and acquisition of the land shall form a charge against the head "12. Miscellaneous Railway Expenditure" until such time as construction of railway project has been actually commenced, when it should be brought on to the capital account of the project or to the head of accounts "11. Subsidized Companies—Land", as the case may be.

G.O. Ms. 998, Rev., d. 6-6-33 B. P. 43, Press, d. 16-6-33.

Appx. V. 76 to 79. *Deleted.*

80. The entire cost of any special establishment which may be entertained under the orders of Government for the purposes of acquisition is included in the cost of land whether incurred by Civil or Public Works Disbursing Officers. The "entire cost" includes not only the salary and allowances of the staff so employed, but also, [a] when contributions for their pension and leave allowances are payable under the rules for the time being in force, such contributions which will then form [a] part of the "charges of, and incidental to, the acquisition", under section 50 (1) of the Land Acquisition Act I of 1894.

Establishment and contingencies.

[a] B.P. 75, d. 3-10-30. B.P. 16, d. 17-2-31

81. Contingent charges incurred in connexion with the acquisition of land for a railway are adjusted in the same way as establishment charges. It should be noted, however, that no portion of the cost of any establishment employed by a railway in connexion with the indication of the areas required for acquisition, the drawing up of land plans, schedules, etc., should be included in that of the land, but should be charged off separately to the work concerned.

Section XI.

Acquisition of land for British railways traversing Indian States and of land in British territory for Indian State Railways.

82. When land is required in Indian State territory for the purposes of State railways proper or railways worked by companies, application should be made to the Political Officer concerned. The procedure to be adopted in making such applications will be the same *mutatis mutandis* as that laid down with regard to land to be taken up in British territory. In no case should land in an Indian State be entered upon or damage done to trees or property in advance of formal sanction without securing through the Local Political Officer the written consent of the Darbar concerned.

Procedure for acquisition of land in Indian States.

83. In the case of railways constructed at the cost of Indian States requiring land in British territory, application should be made direct to the Local Government, or Administration in whose territory the land is required, provided that the work for which the land is required has been duly sanctioned by the Government of India where such sanction is necessary. The Revenue authorities will take the same steps for the acquisition of the land as are laid down with respect to land for Government State Railways or Companies' lines in British India.

Procedure for acquisition of land in British territory for Indian State Railways.

84. When land in British territory is required for the purposes of a railway constructed or to be constructed by or at the expense of an Indian State, such land as is in private ownership will be acquired by the British Revenue authorities as for a public purpose, under the provisions of the Land Acquisition Act. The State will be required to pay, as compensation for the land made over to it, the actual amount of the awards paid in the case of private land, and, in the case of Government land, the full market value *plus* such incidental items of expenditure as the cost of establishment, demarcation, stationery. The State will also be required to pay compensation for

Principles and procedure to be observed on payment of compensation.

the value of extinguished land revenue, the amount to be settled by negotiation in individual cases, due regard being had to the indirect advantages accruing to the British Government from the railway. Where differences of opinion occur between the State concerned and the Local Revenue authorities as to the compensation payable, a Board of Arbitration will be appointed consisting of one member appointed by the State, another by the Government of India (or by the Local Government in the case of a State which is in direct relations with a Local Government), and a third member appointed by mutual consent and their decision shall be final :— Appx. V.

(i) Before making an award in the case of private land in British territory to be acquired for a State, or fixing the amount of compensation in the case of Government land, the responsible officer will be required to send all necessary details, together with the estimates of the amounts payable, to the State and to give every facility for checking them to the officer or the officers concerned for the purpose, and to take into consideration any representation which such officer or any other duly accredited representative of the Darbar may make, whether orally or by letter. Such officers or representatives should be afforded an opportunity of appearing in person or by agent and of producing evidence as to the value of the land before any award relating to it is made or the amount of compensation is fixed.

(ii) When land is required in State territory for the purposes of British railways proper the general principle to be observed shall be that the same degree of compensation shall be paid to the State concerned as is payable by State under the provisions of the preceding clauses. Where the terms of an existing contract with a Railway Company provide that the Secretary of State will use his good offices to secure the provision of land in State territory free of cost, the question whether compensation will be paid or not will be left for negotiation between the political authorities and the State concerned. Conditions of this nature will be avoided in future contracts.

(iii) In the case of land originally granted free by a State to a railway being relinquished to that State for its own railway purpose, the railway will have no claim to compensation in respect of the value of such land.

(iv) In order to give effect to these general principles, the following procedure shall be observed :—

In cases in which it is proposed to acquire private rights in land in a State for railway purposes, the proceedings, where the State concerned has enacted a Land Acquisition Act, will be under that law, and the provisions of paragraph 84 (i) will apply *mutatis mutandis*. Where there is no Land Acquisition Act or where the State itself owns or has rights in the land, which it is proposed to acquire, the estimates of the amount payable will be framed by the State authorities and forwarded to the Railway Administration concerned, who will be afforded the facilities specified in paragraph 84 (i) for checking the estimate. If such estimates are accepted by the Railway Administration, they will be treated as a settlement. Where, however, differences of opinion occur between the State authorities and the Railway Administration concerned as to the compensation payable, arbitration will take place. If both parties signify in writing their consent to such a course, the Political Officer concerned will be appointed as arbiter and his decision shall be final. In other cases the compensation payable shall be assessed by a Board of Arbitration consisting of one member appointed by the State, another by the Government of India or the Local Government in the case of a State which is in direct relations with

Appx. V. a Local Government and a third member appointed by mutual consent and their decision shall be final. In these latter cases the Board of Arbitration will decide the incidence of the cost of arbitration.

(v) In determining the amount of compensation payable, Political Officers and other arbiters will be guided by the general principle that the amount shall be equivalent to what would have been payable by the State had acquisition taken place in British territory and had compensation been assessed in the manner laid down in paragraph 84 supra.

(vi) When a railway is constructed by a State or States in British territory, the State or States concerned will have precisely the same rights as any other Railway Administration in British territory * in the matter of quarrying stone or excavating material required for the purposes of, or in connexion with the railways.*

(vii) When a Government railway or a railway worked by a Company, or by a State or States, is constructed in State territory, the general principle to be observed will be that such a railway shall enjoy the same rights as regards quarrying stone or excavating material as a railway would be entitled to in British territory,† the rates of royalty payable being determined in accordance with the rules in force in the State. In cases where there are no such rules, or where the railway authorities consider that the rates under State rules are unduly high, resort will be had to arbitration in the manner provided in paragraph 84 (iv) above—See note to paragraph 84 (vi).

(viii) Where land outside the regular land widths, as prescribed in sections VII and VIII and Appendix A in the rules for the acquisition of land for

---

* Works for purposes of, or in connexion with, a railway are detailed generally in sections 7, 8, 9, 11, 12, 13, 14 and 51 of the Indian Railways Act, 1890 (IX of 1890).

† *Note.*—The practice in British territory in regard to quarrying stone or excavating material required for railway purposes is as follows :—

(*a*) On the standard strip of land ordinarily acquired by a Railway Administration for permanent occupation, i.e., for the emplacement of the actual railway, and its appurtenances, such as station buildings, platforms, yards, workshops, etc., the question of quarrying rights or payment of royalty does not arise, inasmuch as quarrying as such is impracticable on such land, while material set free in the course of construction is utilized by the railway for its own purposes free of royalty. For land widths ordinarily acquired for the railway proper (other than at stations and terminals) see sections VII and VIII and Appendix A of the rules for acquisition of land for railways (enclosure to Railway Board's Circular No. 889 P.-16, dated the 30th August 1918).

(*b*) With the exception of the above title to the free use of materials set free, in the course of construction on the standard strip of land acquired for the emplacement of the railway, the acquisition of land in general carries with it only the surface rights unless the mineral rights are bought out at the same time under the Land Acquisition (Mines) Act of 1885 (XVIII of 1885). Where surface rights only are acquired, a Railway Administration may not quarry stone outside the above standard strip except with the previous consent of the owner, and on payment of royalty where such is ordinarily levied

(*c*) Mining rights other than those in respect of material met with in course of construction remain with the original owner. Where Government is the original owner, the mining rights are not exercised within the width of 50 yards on either side of the railway measured from the outer toe of bank or outer edge of cutting. Where the mining rights are in private ownership, the owner cannot extend any mining operations under his control at or to any point within 50 yards of a railway, except with the previous sanction of the Governor-General in Council or some officer authorized by him in that behalf or otherwise than in accordance with such instructions, restrictions and conditions, either general or special, which may be attached to such sanction—vide in this connexion section 20 of the Indian Mines Act, 1901 (VIII of 1901).

(*d*) When land is acquired definitely for quarrying purposes, it is open to a Railway Administration to arrange with the owner for securing the whole of the underlying minerals by payment of extra compensation therefor, under the provisions of the Land Acquisition (Mines) Act, 1885 (XVIII of 1885)—vide Appendix IX.

railways (enclosure to Railway Board's Circular No. 889—P—16 dated 30th August 1918), is required for temporary occupation, the procedure in British India will be under Part VI of the Land Acquisition Act, and in the States in which a law on the same lines is in force under that law. In cases where there is no such law, the terms of occupation and use will be settled by mutual agreement; and in the case of dispute as to the terms, by arbitration in the manner prescribed in paragraph 84 (iv). Appx. V.

Transfer, relinquishment or leasing of railway lands in Indian States.

85. With regard to the transfer, relinquishment or leasing of railway lands in Indian States, the same principles and rules laid down as regards railway lands in British territory should be observed except that, in these cases, the Political Officer should be moved to take the necessary action. In cases of transfer where the land involved was originally made over for the use of a particular railway, the consent of the Darbar should be obtained to the transfer of such land to another railway. Where lands, however, have been surrendered by an Indian State to the Secretary of State, for railway purposes in general, the consent of the Indian State concerned to the transfer of such land from one Railway Administration to another or to any other body is not necessary, so long as the land is being utilized for a bona fide railway purpose.

86. The leasing of railway lands in Indian State territory requires the consent of the Darbar only where the lease is for a purpose not connected with the railway. The rents accruing from the lease of railway lands in Indian State territory will be credited to the railway except in cases where the land having been granted free of cost by the Indian State is leased for a purpose unconnected with that of the railway. It should be noted that railway land, used for tanks for receiving and storing oil pending its removal by the consignee, is held to be land used for a bona fide railway purpose. No sales of bulk oil should, however, be allowed on railway premises without the consent of the Political Officer and the Darbar concerned.

SECTION XII.

Miscellaneous.

Demarcation of land.

87. The following rules for the demarcation of land have been laid down by the Government of India under section 13 (*a*) of the Indian Railways Act IX of 1890:—

(*a*) All land permanently occupied for the purposes of a railway shall have its boundaries defined on the ground in such a manner as to enable such boundaries to be readily ascertained and identified.

(*b*) For this purpose, the boundary of the railway land may be defined by a continuous wall, fence or ditch, or by detached marks, posts or pillars.

(*c*) Where the boundary mark is continuous, the boundary of the railway land is to be on the outer edge of the wall, fence or ditch, that is to say, the wall, fence or ditch will be situated wholly on railway land.

(*d*) Where detached marks, such as isolated posts or pillars are used, the boundary of the railway land will pass along the outside of such posts and pillars. Between the marks the boundary will, in each case, be taken in a straight line from the outside of one mark to the outside of the next mark.

(*e*) Detached marks are in no case to be at a greater distance apart (centre to centre) than one-eighth of a mile (660 feet). They are to be of a substantial character, not easily destroyed or moved by accident or mischief, and are to be of such size and form as to be readily found and recognized.

Appx. V.

(*f*) Each detached boundary mark is to bear a number, and the position and corresponding number of each detached boundary mark is to be shown on the land plan.

(*g*) Where a fence, wall, or ditch is situated at some distance within the boundary and does not mark the actual limit of the railway land, it will be necessary that, in addition to such fence, wall or ditch, the actual boundary of the railway land shall be properly marked and defined in accordance with these rules.

88. In the case of a railway constructed by a company receiving land free of cost, to whom the classification defined in paragraph 4 (*b*), section I above, applies, the expression "land permanently occupied" is intended to include not only class "A" land, but also such class "B" and class "C" land as may be required for a considerable period. In the event of any class "B" or class "C" land enclosed by the boundary being afterwards relinquished, the boundary should be shifted to mark the new limit.

89. Each Railway Administration is responsible for the demarcation and periodical verification of the boundaries, and the maintenance of proper records in connexion therewith of all land in the possession of that railway.

G.O. Ms. 802, d. 11-4-32. B.P. Mis. 1255, d. 21-4-32.

Land for assisted sidings.

90. The land required for an assisted siding outside the railway boundaries will be acquired under the Land Acquisition Act by the Railway Administration which undertakes the construction of the siding at the cost of the applicants for the siding. An estimate of the cost of the land which will be prepared by the Railway Administration will be sent to the applicants who must deposit the amount before any steps are taken for the acquisition of the land. The applicants must also agree to pay on demand such excess cost, if any, as may be incurred in the acquisition of the land. Land so acquired will vest absolutely in the Secretary of State and the applicants for the siding will have no right or claims thereto.

Land for railway cemeteries.

91. A State Railway or a Company requiring land in connexion with the construction of railway cemetery should apply to the Local Government or Administration, who will make the necessary arrangements to place the land required at the disposal of the Railway Administration. It is open to a Local Government or Administration to grant such land free of cost or to claim payment of the market value thereof from the railway concerned. In no case should an application be made to a Local Government or Administration for land, until the cemetery for which the land is required has been approved and sanctioned by the Railway Board, and it is left to the discretion of a Local Government to determine the exact area of land that should be granted.

Construction of armouries and quarters for Sergeant Instructors of Volunteer corps on railway lands*.

92. Where it is not possbile to build armouries within the precincts of a workshop, there is no objection to both armouries and quarters for Sergeant Instructors of Railway Volunteer Corps being built on railway land in one block, a separate entrance being provided for each. Where armouries happen to be built separately or situated in existing blocks, i.e., in Engine sheds, Workshops, Stores, etc., quarters for Sergeant Instructors may be constructed on railway land close to the armouries. It must be understood, however, that quarters for Sergeant Instructors, when built on railway land, shall be subject to the same conditions as at present apply to armouries, that is, the land occupied by the quarters shall remain the property of the Railway Administration and no rent shall be charged for it, but with the

* Vide Railway Board's Circular 701, R.C., dated 3rd March 1909.

additional proviso that all buildings so built must be taken over by the Railway Administration concerned at a fair valuation in the event of the Sergeant Instructors being withdrawn or their headquarters being changed. Appx. V.

Legal proceedings.

93. When a point of law is at issue in connexion with any land acquisition proceedings, the Local Government or Administration should be consulted before legal proceedings are entered upon.

Appx. V.

SUB-ENCLOSURES.

APPENDIX A.

Schedule of land widths to be taken up for a single line in bank 5 feet 6 inches gauge.

Height of bank.	Centre line to toe of slope.	Berm		Width at top of burrow p.t.	Add outside pits to allow of erection of fence.	Width from centre line to boundary.		Total width of land.	Remarks.	Depth of pits.
		One side.	Other side.			One side	Other side.			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
0	10	10	10	..	..	20	20	40	Pits on one side.	..
1	12	11	10	14	3	40	22	62	Do.	2
2	14	12	10	30	3	59	24	83	Do.	2
3	16	13	10	34	3	66	26	92	Do.	3
4	18	14	10	47	3	82	28	110	Do.	3
5	20	15	10	61	3	99	30	129	Do.	3
6	22	16	10	61	3	102	32	134	Do.	4
7	24	17	10	74	3	118	34	152	Do.	4
8	26	18	10	88	3	135	36	171	Do.	4
9	28	19	19	47	3	97	97	194	Pits on both sides.	5
10	30	20	20	53	3	106	106	212	Do.	5
11	32	21	21	60	3	116	116	232	Do.	5
12	34	22	22	68	3	127	127	254	Do.	5
13	36	23	23	76	3	138	138	276	Do.	5
14	38	24	24	84	3	149	149	298	Do.	5
15	40	25	25	93	3	161	161	322	Do.	5
16	42	26	26	103	3	174	174	348	Do.	5
17	44	27	27	113	3	187	187	374	Do.	5
18	46	28	28	123	3	200	200	400	Do.	5
19	48	28	28	133	3	212	212	424	Do.	5
20	50	28	28	145	3	226	226	452	Do.	5
21	52	28	28	134	3	217	217	434	Do.	6
22	54	28	28	144	3	229	229	458	Do.	6
23	56	28	28	154	3	241	241	482	Do.	6
24	58	28	28	165	3	254	254	508	Do.	6
25	60	28	28	177	3	268	268	536	Do.	6
26	62	28	28	188	3	281	281	562	Do.	6
27	64	28	28	200	3	295	295	590	Do.	6
28	66	28	28	213	3	310	310	620	Do.	6
29	68	28	28	226	3	325	325	650	Do.	6
30	70	28	28	239	3	340	340	680	Do.	6

GENERAL CROSS SECTIONS

SHOWING WIDTHS OF LAND TO BE TAKEN UP

5 FT 6 IN GAUGE

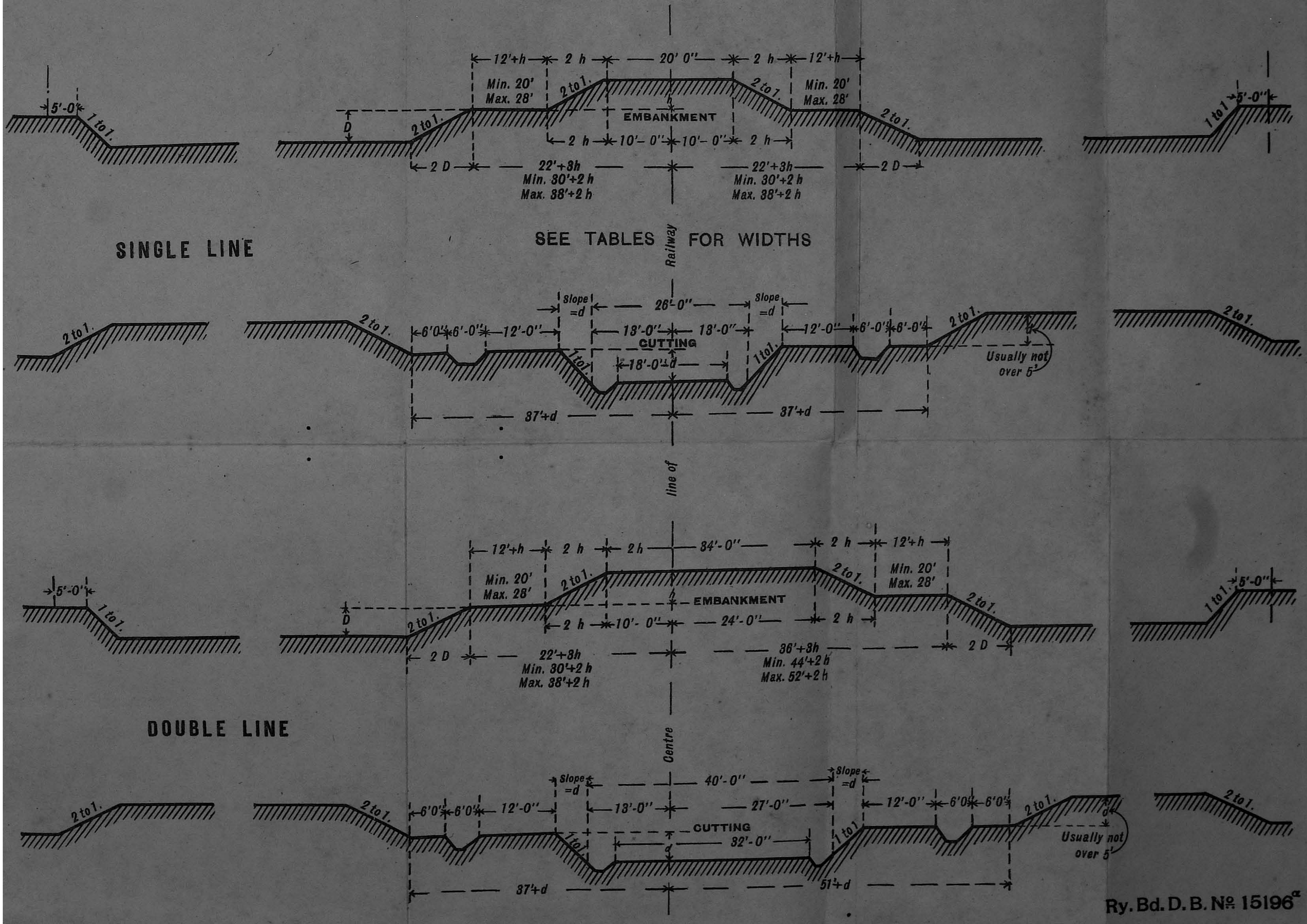
Scale — $\frac{1}{16}$ Inch to 1 foot

(Orders relating to acquisition of land)

APPENDIX A

Feet 16 8 0 16 32 *Feet*

(1913)



Reg. No. 25 '58 *Copies 6300*

Ry. Bd. D. B. No. 15196[α]

P. Z. P., C. S. O., Madras.

Schedule of land widths to be taken up for a single line in cutting 5 feet 6 inches gauge.

Depth of cutting.	Half width at top of cutting.	Berm.		Width at bottom of spoil bank.	Width from centre line to boundary.		Total width of land.	Remarks.	Depth of spoil bank.
		One side.	Other side.		One side.	Other side.			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
0	13	10	10	0	23	23	46	Spoil banks on one side ..	5 feet.
1	14	11	10	15	40	24	64	Do. ..	Do.
2	15	12	10	21	48	25	73	Do. ..	Do.
3	16	13	10	27	56	26	82	Do. ..	Do.
4	17	14	10	34	65	27	92	Do. ..	Do.
5	18	15	10	41	74	28	102	Do. ..	Do.
6	19	16	10	48	83	29	112	Do. ..	Do.
7	20	17	10	56	93	30	123	Do. ..	Do.
8	21	18	10	64	103	31	134	Do. ..	Do.
9	22	19	19	42	83	83	166	Spoil banks on both sides ..	Do.
10	23	20	20	46	89	89	178	Do. ..	Do.
11	24	21	21	51	96	96	192	Do. ..	Do.
12	25	22	22	56	103	103	206	Do. ..	Do.
13	26	23	23	61	110	110	220	Do. ..	Do.
14	27	24	24	66	117	117	234	Do. ..	Do.
15	28	24	24	72	124	124	248	Do. ..	Do.
16	29	24	24	77	131	131	262	Do. ..	Do.
17	30	24	24	83	138	138	276	Do. ..	Do.
18	31	24	24	89	145	145	290	Do. ..	Do.
19	32	24	24	96	152	152	304	Do. ..	Do.
20	33	24	24	102	159	159	318	Do. ..	Do.
21	34	24	24	109	167	167	334	Do. ..	Do.
22	35	24	24	116	175	175	350	Do. ..	Do.
23	36	24	24	123	183	183	366	Do. ..	Do.
24	37	24	24	130	191	191	382	Do. ..	Do.
25	38	24	24	138	200	200	400	Do. ..	Do.
26	39	24	24	145	208	208	416	Do. ..	Do.
27	40	24	24	153	217	217	434	Do. ..	Do.
28	41	24	24	161	226	226	452	Do. ..	Do.
29	42	24	24	170	236	236	472	Do. ..	Do.
30	43	24	24	178	245	245	490	Do. ..	Do.

Appx. V.

Schedule of lana widths to be taken up for a single line in bank metre yuuge.

Height of bank.	Centre line to toe of slope.	Berm.		Width at top of burrow pit.	Add outside pits to allow of erection of fence.	Width from centre line to boundary.		Total width of land.	Remarks.	Depth of pits.
		One side.	Other side.			One side.	Other side.			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
0	8	10	10	..	..	18	18	36	Pits on one side.	..
1	10	11	10	13	3	37	20	57	Do.	2
2	12	12	10	25	3	52	22	74	Do.	2
3	14	13	10	29	3	59	24	83	Do.	3
4	16	14	10	41	3	74	26	100	Do.	3
5	18	15	10	53	3	89	28	117	Do.	3
6	20	16	10	54	3	93	30	123	Do.	4
7	22	17	10	66	3	108	32	140	Do.	4
8	24	18	10	79	3	124	34	158	Do.	4
9	26	19	19	43	3	91	91	182	Pits on both sides.	5
10	28	20	20	49	3	100	100	200	Do.	5
11	30	21	21	55	3	109	109	218	Do.	5
12	32	22	22	62	3	119	119	238	Do.	5
13	34	23	23	70	3	130	130	260	Do.	5
14	36	24	24	78	3	141	141	282	Do.	5
15	38	25	25	86	3	152	152	304	Do.	5
16	40	26	26	95	3	164	164	328	Do.	5
17	42	27	27	105	3	177	177	354	Do.	5
18	44	28	28	115	3	190	190	380	Do.	5
19	46	28	28	125	3	202	202	404	Do.	5
20	48	28	28	136	3	215	215	430	Do.	5
21	50	28	28	126	3	207	207	414	Do.	6
22	52	28	28	135	3	218	218	436	Do.	6
23	54	28	28	145	3	230	230	460	Do.	6
24	56	28	28	156	3	243	243	486	Do.	6
25	58	28	28	167	3	256	256	512	Do.	6
26	60	28	28	178	3	269	269	538	Do.	6
27	62	28	28	190	3	283	283	566	Do.	6
28	64	28	28	202	3	297	297	594	Do.	6
29	66	28	28	215	3	312	312	624	Do.	6
30	68	28	28	227	5	326	326	652	Do.	6

GENERAL CROSS SECTIONS

SHOWING WIDTHS OF LAND TO BE TAKEN UP

METRE GAUGE

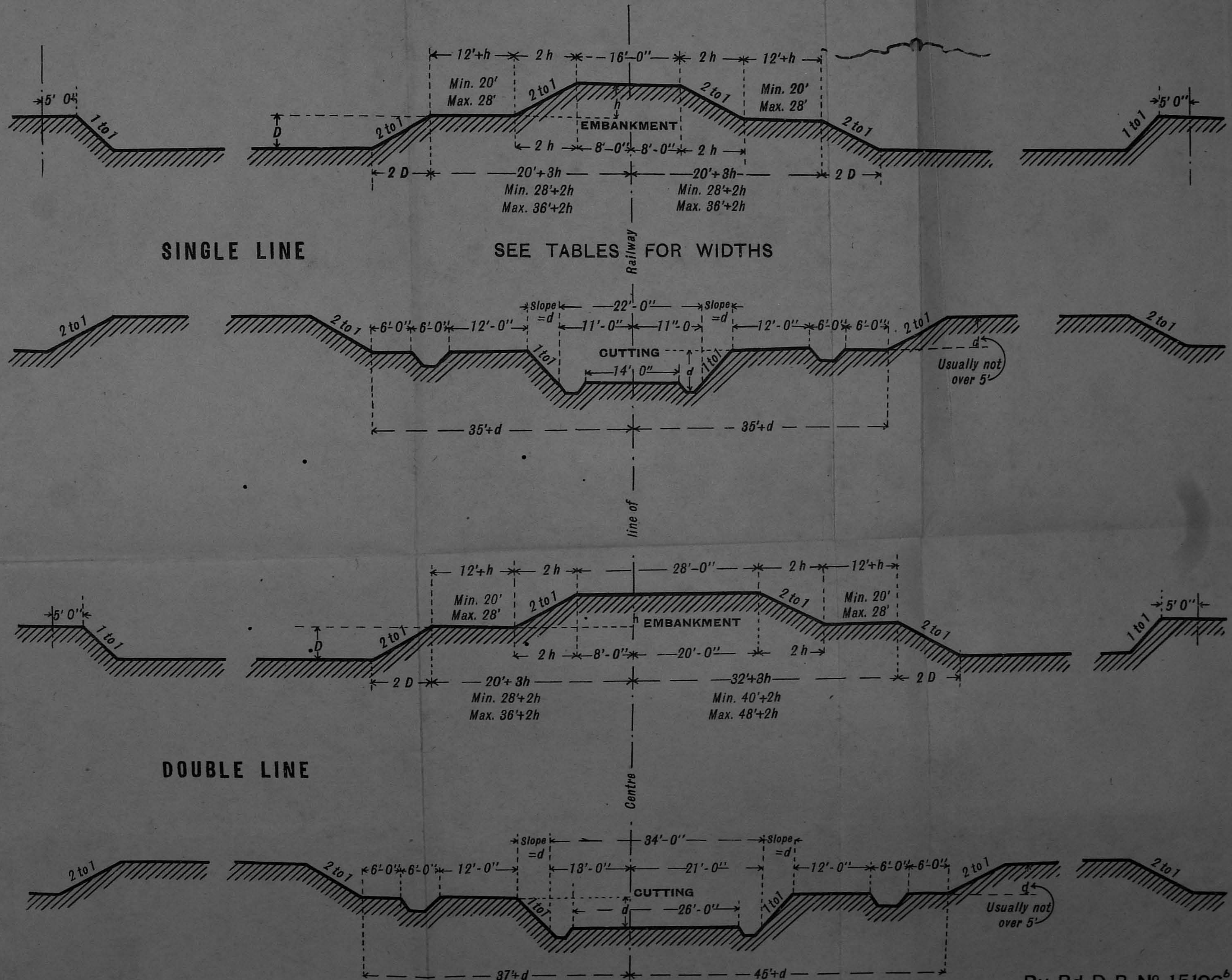
Scale— $\frac{1}{16}$ Inch to 1 foot

(Orders relating to acquisition of land)

APPENDIX A.

Feet 16 8 0 16 32 Feet

(1913)



Ry. Bd. D. B. № 15196[b]

Reg. No. 27 '58 *Copies 6300* P. Z. P., C. S. O., Madras

Schedule of land widths to be taken up for a single line in cutting metre gauge.

Depth of cutting.	Half width at top of cutting.	Berm.		Width at bottom of spoil bank.	Width from centre line to boundary.		Total width of land.	Remarks.	Depth of spoil bank.
		One side.	Other side.		One side.	Other side.			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
0	11	10	10	..	21	21	42	Spoil banks on one side ..	5 feet.
1	12	11	10	15	38	22	60	Do. ..	Do.
2	13	12	10	20	45	23	68	Do. ..	Do.
3	14	13	10	25	52	24	76	Do. ..	Do.
4	15	14	10	31	60	25	85	Do. ..	Do.
5	16	15	10	37	68	26	94	Do. ..	Do.
6	17	16	10	44	77	27	104	Do. ..	Do.
7	18	17	10	51	86	28	114	Do. ..	Do.
8	19	18	10	58	95	29	124	Do. ..	Do.
9	20	19	19	38	77	77	154	Spoil banks on both sides ..	Do.
10	21	20	20	42	83	83	166	Do. ..	Do.
11	22	21	21	46	89	89	178	Do. ..	Do.
12	23	22	22	51	96	96	192	Do. ..	Do.
13	24	23	23	56	103	103	206	Do. ..	Do.
14	25	24	24	61	110	110	220	Do. ..	Do.
15	26	24	24	66	116	116	232	Do. ..	Do.
16	27	24	24	71	122	122	244	Do. ..	Do.
17	28	24	24	76	128	128	256	Do. ..	Do.
18	29	24	24	82	135	135	270	Do. ..	Do.
19	30	24	24	88	142	142	284	Do. ..	Do.
20	31	24	24	94	149	149	298	Do. ..	Do.
21	32	24	24	100	156	156	312	Do. ..	Do.
22	33	24	24	107	164	164	328	Do. ..	Do.
23	34	24	24	114	172	172	344	Do. ..	Do.
24	35	24	24	121	180	180	360	Do. ..	Do.
25	36	24	24	128	188	188	376	Do. ..	Do.
26	37	24	24	135	196	196	392	Do. ..	Do.
27	38	24	24	142	204	204	408	Do. ..	Do.
28	39	24	24	150	213	213	426	Do. ..	Do.
29	40	24	24	158	222	222	444	Do. ..	Do.
30	41	24	24	166	231	231	462	Do. ..	Do.

GENERAL CROSS SECTIONS

SHOWING WIDTHS OF LAND TO BE TAKEN UP

2 FT 6 IN GAUGE

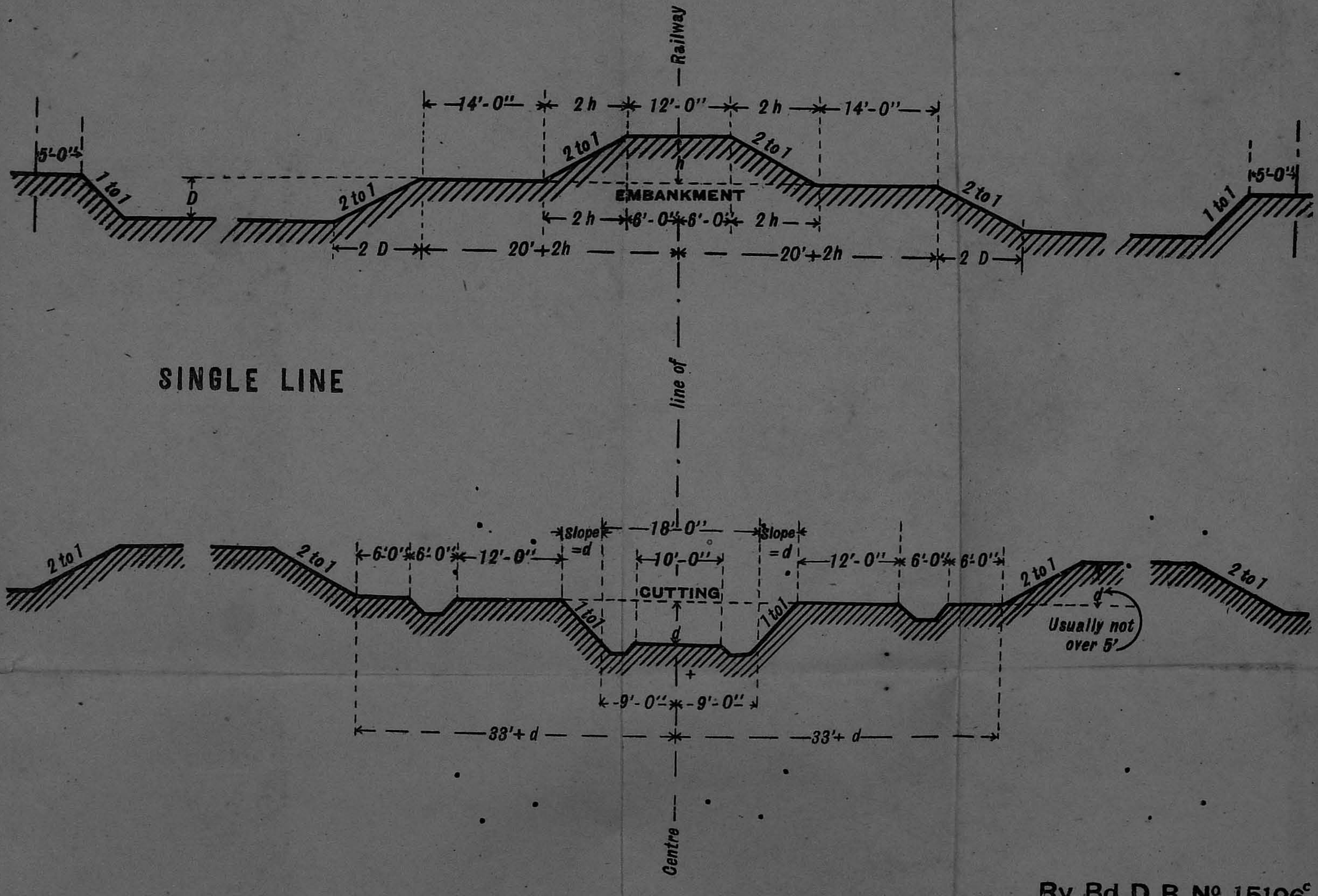
Scale — $\frac{1}{16}$ Inch to 1 foot

(Orders relating to acquisition of land)

APPENDIX A.

Feet 16 8 0 16 32 Feet

(1913)



Reg. No. 26'58 *Copies 6300*

Ry. Bd. D. B. No 15196c

P. Z. P., C. S. O., Madras.

Appx. V.

Schedule of land widths to be taken up for a single line in cutting 2 feet 6 inches gauge.

Depth of cutting.	Half width at top of cutting.	Berm.		Width at bottom of spoil bank.	Width from centre line to boundary.		Total width of land.	Remarks.	Depth of spoil bank.
		One side.	Other side.		One side.	Other side.			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
0	9	10	10	..	19	19	38	Spoil banks on one side ..	5 feet.
1	10	11	10	14	35	20	55	Do. ..	Do.
2	11	12	10	18	41	21	62	Do. ..	Do.
3	12	13	10	23	48	22	70	Do. ..	Do.
4	13	14	10	28	55	23	78	Do. ..	Do.
5	14	15	10	33	62	24	86	Do. ..	Do.
6	15	16	10	39	70	25	95	Do. ..	Do.
7	16	17	10	45	78	26	104	Do. ..	Do.
8	17	18	10	52	87	27	114	Do. ..	Do.
9	18	19	19	34	71	71	142	Spoil banks on both sides ..	Do.
10	19	20	20	38	77	77	154	Do. ..	Do.
11	20	21	21	42	83	83	166	Do. ..	Do.
12	21	22	22	46	89	89	178	Do. ..	Do.
13	22	23	23	50	95	95	190	Do. ..	Do.
14	23	24	24	55	102	102	204	Do. ..	Do.
15	24	24	24	60	108	108	216	Do. ..	Do.
16	25	24	24	65	114	114	228	Do. ..	Do.
17	26	24	24	70	120	120	240	Do. ..	Do.
18	27	24	24	75	126	126	252	Do. ..	Do.
19	28	24	24	80	132	132	264	Do. ..	Do.
20	29	24	24	86	139	139	278	Do. ..	Do.
21	30	24	24	92	146	146	292	Do. ..	Do.
22	31	24	24	98	153	153	306	Do. ..	Do.
23	32	24	24	104	160	160	320	Do. ..	Do.
24	33	24	24	111	168	168	336	Do. ..	Do.
25	34	24	24	118	176	176	352	Do. ..	Do.
26	35	24	24	125	184	184	368	Do. ..	Do.
27	36	24	24	132	192	192	384	Do. ..	Do.
28	37	24	24	139	200	200	400	Do. ..	Do.
29	38	24	24	146	208	208	416	Do. ..	Do.
30	39	24	24	154	217	217	434	Do. ..	Do.

Appx. V.

APPENDIX B.

Form of Schedule for Land Acquisition.

FORM NO. 1.

[To be retained by Railway Authorities and to be utilized in cases of Railways taking up land at capital cost.]

GONDA-AZIMGARH RAILWAY.

AZIMGARH SECTION.

Schedule showing land required for railway purposes in the Bilaspur Tahsil of the Banda district.

Name of village—Mandwal.

Reference to plan.		Purpose for which the land is occupied.	Area of land required.	
Set.	Sheets.		Permanent (Pink).	Temporary (Yellow).
			ACS.	ACS.
Set C—Banda district.	3	Main line from chainage 36,627 to chainage 38,900, land to be permanently occupied.	4·6963	..
	3	Same length for side cuttings ..	..	3·1309
	3	Extra land for stacking material, etc., at site of Bridge No. 57.	..	9·5500
	4	Mandwal Station-yard	28·6961	..
	4	Approach road to Mandwal Station.	..	2·7548
	4	Site for temporary house and office for Assistant Engineer.	..	5·5096
	5	Brickfield to north of line opposite chainage 42,350, to be permanently occupied.	11·2163	..
	6	Main line from chainage 41,410 to chainage 42,728, land to be permanently occupied.	2·4389	..
	6	Same length for side cuttings ..	..	1·5243
		Total ..	47·0476	22·4696

AZIMGARH,

Executive Engineer.

Engineer-in-Chief.

Agent.

Chief Engineer.

FORM No. 2.

[For Revenue Authorities.]

GONDA-AZIMGARH RAILWAY.

AZIMGARH SECTION.

Schedule showing land required for railway purposes in the Bilaspur Tahsil of the Banda district.

Name of village—Mandwal.

Reference to plan.		Purpose for which the land is occupied.	Area of land required (Pink).
Set.	Sheets.		
			ACS.
Set C—Banda district.	3	Main line from chainage 36,627 to chainage 38,900 land to be permanently occupied ..	4·6963
	3	Same length for side cuttings	3·1309
	3	Extra land for stacking materials, etc., at site of Bridge No. 57	9·5500
	4	Mandwal Station-yard	28·6961
	4	Approach road to Mandwal Station	2·7548
	4	Site for temporary house and office for Assistant Engineer	5·5096
	5	Brickfield to north of line opposite chainage 42,350	11·2163
	6	Main line from chainage 41,440 to chainage 42,728, land to be permanently occupied ..	2·4389
	6	Same length for side cuttings	1·5243
		Total ..	69·5172

AZIMGARH,

Executive Engineer,

Agent.

Engineer-in-Chief.

Chief Engineer.

Appx. V.

FORM No. 3.

[To be retained by the railway authorities and to be utilized by the railways receiving land free of cost.]

GONDA-AZIMGARH RAILWAY.

AZIMGARH SECTION.

Schedule showing land required for railway purposes in the Bilaspur Tahsil of the Banda district.

Name of village—Mandwal.

Reference to plan.		Purpose for which the land is occupied.	Area of land required.			
Set.	Sheets.		Class A. (Pink).	Class B. (Yellow).	Class C. (Purple).	Class D. (Green).
			ACS.	ACS.	ACS.	ACS.
Set C— Banda district.	3	Main line from chainage 36,627 to chainage 38,900, land to be permanently occupied.	4·6963	..	..	..
	3	Same length for side cuttings	..	3·1309	..	..
	3	Extra land for stacking material, etc., at site of Bridge No. 57 ..	..	9·5500	..	..
	4	Mandwal Station-yard ..	28·6961	..	..	..
	4	Approach road in Mandwal Station	..	..	..	2·7548
	4	Site for temporary house and office for Assistant Engineer	..	5·5096	..	..
	5	Brickfield to north of line opposite chainage 42,350	..	..	11·2163	..
	6	Main line from chainage 41,440 to chainage 42,728, land to be permanently occupied.	2·4389	..	..	..
	6	Same length for side cuttings	..	1·5243	..	..
		Total ..	35·8313	19·7148	11·2163	2·7548

AZIMGARH,

Executive Engineer.

Agent. *Engineer-in-Chief.*

Chief Engineer.

Appx V.

Back Schedule.

—			Class. A.	Class B.	Class C.	Class D.	Remarks.
Date of occupation by Railway Company.							
Exact area taken up.							
Amount of reduction of Jama.							
Net cash compensation.							
Yearly rental for lands under Class C.							
Land transferred from one class to another.	Area.						
	Date of transfer.						
Released land how disposed of.	Exact area of land released.						
	Restored to mauza.	Area.					
		Increase per Jama.					
	Sold.	Area.					
		Sale-proceeds.					
	Leased.	Area.					
		Amount of rental.					
Remaining unproductive.							
Cash paid by Railway Company as compensation for deterioration.							

Note.—This form known as the "Back Schedule" has been prescribed by the Government of United Provinces for adoption by the Railways traversing the United Provinces and Oudh. As this form is designed to meet the convenience of the Revenue authorities as well as the railways concerned, it is commended for adoption *mutatis mutandis* by all other railways in India and Burma, but not without the prior approval of each local Government or Administration.

Appendix C.

Appx. V.

Acquisition of State land in charge of the Military Authorities.

[Railway Board's Circular No. 2650, R.G., d. 2-9-13.]

The accompanying summary of rules on the subject of the transfer or acquisition of land in cantonments or other land in charge of the Military Authorities, and of the construction of buildings and other works in the vicinity of forts and cantonments, which has been brought up to date is forwarded for information and guidance, in supersession of the rules communicated with Railway Board's Circular Letter No. R.C. 194-B-10, dated the 8th October 1906.

(*A*) *Rules relating to the acquisition of land.*

I. No land, whether within cantonment limits, forming part of an encamping ground, or otherwise held for military purposes, shall be entered upon or occupied for any purpose whatever, either by contractors or *any* other persons (official or non-official) acting under the orders of any Civil Department of the State, until the sanction of the Government of India in the Army Department to the occupation or use of the land has first been obtained, and communicated to the General Officer Commanding the Division or Independent Brigade. In all such cases, the sanction of the Government of India will be obtained by the General Officers Commanding Divisions or Independent Brigades through the Quartermaster-General in India.

Proviso.—These orders do not affect the powers exercised under section 263 of the Cantonment Code, 1912, by the General Officer Commanding the Division or Independent Brigade, to sanction the grant of ordinary building sites in cantonments. For rules regarding land within defence zones, *see* rules VII, VIII and IX.

II. Application for such land when within cantonment limits should be made by the Officer-in-charge of the works, to the Cantonment Authority, but in the case of a Military encamping ground or other State land in Military occupation application should be made to the General Officer Commanding the Division or Independent Brigade. The Military Authorities will then take the necessary steps to obtain (i) the sanction of His Excellency the Commander-in-Chief to enter into negotiations for the proposed transfer of land; when this is sanctioned, (ii) the opinion of the local Government, which should invariably be recorded upon all applications, and (iii) the sanction of the Government of India to the occupation of the required land. In all cases where the sanction of the Railway Board to the acquisition of such land by a Railway Administration is necessary, the application for such sanction should be made only after the sanction of the Government of India in the Army Department has been obtained.

III. The application referred to above should be accompanied by the usual land plans and schedules required by the rules relating to the acquisition of land for railways. The plans should be full and complete and should show all existing roads and buildings, and also rifle ranges if interfered with in any way; and if any buildings are known to be used for public purposes, or by special departments, their purpose and ownership should be stated.

IV. On receipt by the local Military Authorities of the sanction referred to in II above they will at once transfer the land. In all cases however where the land is being transferred without the retention of rightsover such land the transfer should be effected through the Revenue Authorities who

will also, when necessary, assess the value of such land, and the value according to such assessment should be debited and credited to the proper Railway and Civil Accounts head respectively. No notification in the local gazette is necessary. Appx. V.

Proviso.—The above rule does not apply to the adjustment of boundaries by mutual consent, which may be effected without the intervention of the Civil Authorities, but covers the exchange of separate plots of land.

V. In the case of privately owned land in cantonments, the provisions of the Land Acquisition Act should be applied, but it will be necessary in the first place for the officer applying to obtain the sanction of the Government of India in the Army Department to the occupation of the land as prescribed in II above.

VI. The procedure laid down in Chapter XXI of the Cantonment Code, 1912, for application for permission to occupy, for the purposes of a building site, land belonging to the Government in a cantonment, applies to private railway companies and individuals only, and not to State Railways, including railways worked by companies, who hold lands the ownership of which vests in Government or to departments of the State.

(*B*) *Rules relating to restrictions on the use of land.*

VII. The following orders control the construction of buildings, etc., on land in the charge of the Military Authorities or of Civil Departments, lying within the authorized zones of works of defence :—

(i) Clearance zones shall be prescribed and clearly demarcated in the vicinity of all the works of defence which are enumerated in paragraph 336 of Army Regulations, India, Volume II, and such other fortifications or places as the Government of India may decide.

(ii) In such zone all land will be dealt with in accordance with the Indian Works of Defence Act.

(iii) When a clearance zone has been notified, except in so far as the notification may authorize modifications, no infringement of the restrictions imposed under the Act shall be permitted by any official or private person without the previous sanction of the Officer Commanding or General Officer Commanding within their powers of exemption as specified in the Act, or by the Government of India.

(iv) Without the previous sanction of the Government of India, no State land within the prescribed clearance zone shall be transferred to, sold to, exchanged with or permanently occupied by, any private person or municipality or Corporation, not immediately subject to the executive orders of the Government of India.

VIII. When a zone has been prescribed and contains land in occupation by a railway the Officer Commanding shall inform the Railway Authorities in whose charge the land may be, of the area of the land thus affected and of the restrictions which will be applied. Any modification of the original restrictions will be similarly communicated.

Proviso.—Rules VII and VIII do not apply to the defences of Fort William, Calcutta and Fort St. George, Madras, nor to the Fortress of Aden concerning which special regulations exist.

IX. In the case of private lands notified under section 3 of the Indian Works of Defence Act VII of 1903, that is, land which is to be kept clear of buildings and other obstructions, the procedure in regard to the construction of works, etc., thereon is that laid down in section 7 of the Act (*see* Annexure).

Appx. V.

(C) *Summary of preceding rules.*

X. The procedure laid down in the preceding paragraphs summarized briefly is as follows :—

(*a*) In all cases of land in cantonments, camping grounds, in the vicinity of forts, or otherwise held for Military purposes, the consent of the Military Authorities is necessary before it can be entered upon or occupied or before any work can be commenced thereon (Rules I, II, III and VII to IX).

Acquisition should first be sanctioned by the Government of India in the Army Department, then if necessary by the Railway Board.

(*b*) When land in the occupation of the Military Authorities is being acquired outright acquisition should be effected through the Revenue Authorities who will assess the value to be debited and credited to the proper Railway and Civil Accounts head respectively.

(*c*) When the land is in the occupation of a Civil Department or belongs to a private owner, it must, after the consent of the Military Authorities has been obtained, be acquired in the usual manner through the Revenue Authorities (Rule V).

(*d*) All plans submitted with an application should be full and complete clearly showing sites of existing roads, buildings and rifle ranges (Rule III).

ANNEXURE TO APPENDIX C.

Extracts from the Indian Works of Defence Act VII of 1903, *as amended by Act V of* 1909.

* * * * * *

3. (1) Whenever it appears to the Local Government that it is necessary to impose restrictions upon the use and enjoyment of land in the vicinity of any work of defence or of any site intended to be used or to be acquired for any such work, in order that such land may be kept free from buildings and other obstructions, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorized to certify its orders.

(2) The said declaration shall be published in the local official gazette and shall state the district or other territorial division in which the land is situate and the place where sketch plan of the land, which shall be prepared on a scale not smaller than six inches to the mile and shall distinguish the boundaries referred to in section 7, may be inspected; and the Collector shall cause public notice of the substance of the said declaration to be given at convenient places in the locality.

(3) The said declaration shall be conclusive proof that it is necessary to keep the land free from buildings and other obstructions.

* * * * * *

7. From and after the publication of the notice mentioned in section 3, sub-section (2), such of the following restrictions as the Local Government may, in its discretion, declare therein shall attach with reference to such land, namely :— Appx. V,

(*a*) Within an outer boundary which, except so far as is otherwise provided in section 39, sub-section (4), may extend to a distance of two thousand yards from the crest of the outer parapet of the work :—

(i) no variation shall be made in the ground level, and no building, wall, bank or other construction above the ground shall be maintained, erected, added to or altered otherwise than with the written approval of the General Officer Commanding the Division, and on such conditions as he may prescribe ;

(ii) no wood, earth, stone, brick, gravel, sand or other material shall be stacked, stored, or otherwise accumulated :

Provided that, with the written approval of the General Officer, Commanding the Division, District or Brigade, and on such conditions as he may prescribe, road ballast, manure and agriculture produce may be exempted from the prohibition :

Provided, also, that any person having control of the land as owner, lessee, or occupier shall be bound forthwith to remove such road ballast, manure or agricultural produce, without compensation, on the requisition of the Commanding Officer.

(iii) no surveying operation shall be conducted otherwise than by or under the personal supervision of a public servant duly authorized in this behalf, in the case of land under the control of the Military Authority, by the Commanding Officer and in other cases by the Collector with the concurrence of the Commanding Officer ; and

(iv) where any building, wall, bank or other construction above the ground has been permitted under clause (i) of this sub-section to be maintained, erected, added to or altered, repairs shall not, without the written approval of the General Officer Commanding the Division, be made with materials different in kind from those employed in the original building, wall, bank or other construction.

(*b*) Within a second boundary which may extend to a distance of one thousand yards from the crest of the outer parapet of the work the restrictions enumerated in clause (*a*) shall apply with the following additional limitations, namely :—

(1) no building, wall, bank or other construction of permanent materials above the ground shall be maintained or erected :

Provided that, with the written approval of the General Officer Commanding the Division and on such conditions as he may prescribe, huts, fences and other constructions of wood or other materials easily destroyed or removed, may be maintained, erected, added to or altered :

Provided, also, that any person having control of the land as owner, lessee or occupier shall be bound forthwith to destroy or remove such huts, fences or other constructions, without compensation upon an order in writing signed by the General Officer Commanding the Division, District or Brigade; and

(2) live hedges, rows or clumps of trees or orchards shall not be maintained, planted, added to or altered otherwise than with the written approval of the General Officer Commanding the Division and on such conditions as he may prescribe.

Appx. V.

(c) Within a third boundary which may extend to a distance of five hundred yards from the crest of the outer parapet of the work, the restrictions enumerated in clauses (a) and (b) shall apply with the following additional limitation, namely :—

No building or other construction on the surface, and no excavation, building or other construction below the surface, shall be maintained or erected :

Provided that, with the written approval of the Commanding Officer and on such conditions as he may prescribe, open railings and dry brushwood fences may be exempted from this prohibition.

APPENDIX D.

Licence form for use of railway land.

An agreement made this *day of*
19 *between the*
hereinafter called "the Administration" of the one part and
hereinafter called "the Licensee(s)" of the other part
Whereby it is agreed as follows :—

1. The Licensee(s) shall have the use of the piece of land described in the schedule hereto for the purpose of constructing and maintaining thereon tanks, buildings and other conveniences for the reception and storage of and receiving and storing therein kerosene oil in bulk subject to such rules, regulations and by-laws as may from time to time be made by or on behalf of the Administration or by or on behalf of any local authority in relation to the transport, discharge and storage of kerosene oil and subject to the conditions hereinafter contained.

2. No oil shall be stored or placed on the said land except in some tank or receptacle approved by the Manager for the time being of the hereinafter referred to as the said Manager.

3. Licensee(s) shall before proceeding to construct any tank or other receptacle for oil or any building or other erection on the said land, give notice in writing thereof to the said Manager specifying the proposed site of the convenience intended to be constructed and furnish to him a detailed plan, elevation and specification of such convenience and the Licensee(s) shall not construct such convenience save on such site and in accordance with such plan, elevation and specification thereof as shall be first approved by the said Manager.

4. The Licensee(s) shall allow the said Manager free access at all times to the said land and to all tanks, buildings, works and conveniences of the Licensee(s) thereon whether completed or in course of construction and the Licensee(s) shall whenever so requested by the said Manager, forthwith pull down, rebuild, replace or repair any part or parts of such tanks, buildings, works or conveniences which the said Manager shall consider to be improperly situated or of defective design, construction or material or in want of repair.

5. The Licensee(s) shall from the day of 19 pay to the Administration a rent of Rs. per annum which shall be paid on the last day of the month for which the same shall become due and shall also duly pay all cesses, rates and taxes payable as from the said date in respect of the said land and the tanks, buildings, works and conveniences of the Licensee(s) thereon for the time being and the proportion of all the cesses, rates and taxes of the station premises applicable to the said land, tanks, buildings, works and conveniences if the same be not separately assessed in respect thereof.

Appx. V.

6. The Licensee(s) shall not transfer or sublet the privileges in clause 1 hereof mentioned without the consent in writing of the said Manager.

7. No sale of oil shall take place at any depot without the prior consent in each case of the Local Civil Authorities which must be obtained by and at the cost of the Licensee(s).

8. The said privileges in clause 1 hereof mentioned are granted on the express understanding that either party may be at liberty to determine and put an end to this licence by giving to the other of them at any time three calendar months notice in writing and such privileges may be so determined by the Administration without any claim for compensation whatever on the part of the licensees and on the expiration of such notice the licensees shall discontinue to use and shall yield up to the Administration of the said land.

The petroleum installation, buildings and other works erected by the licensees except such portions of the installation, buildings and other works as may be taken over by the Administration on terms to be mutually agreed upon between the Administration and the licensees, shall be pulled down and removed from the said land by the licensees at the licensees' own expense within two calendar months after the determination of this licence, and the licensees shall within the period last aforesaid at the licensees' own expense restore to its former condition the land forming the site thereof and if default shall be made herein, the administration may after the expiry of the said period carry out so much of such pulling down, removal and restoration as the licensees shall fail to complete and may sell any material and things so removed and all expenses incurred therein shall be paid by the Licensees to the Administration on demand.

G.O. Mis. 1401, Rev., d. 30-6-31. B.P. Mis. 2145, d. 7-7-31.

9. Nothing herein contained shall be construed to create a tenancy in favour of the Licensee(s) of the said premises and the Administration may for their mere motion upon the determination of this licence re-enter upon and retake and absolutely retain possession of the said land.

10. The Licensee(s) shall at all times keep the Administration indemnified against and shall reimburse to the Administration all claims, demands, suits, losses, damages, costs, charges and expenses whatsoever which the Administration may sustain or incur by reason or in consequence of any injury to any person or to any property resulting directly or indirectly from the explosion, combustion or leakage of any oil kept or placed by the Licensee(s) upon the said land or by reason or in consequence of the non-observance or non-compliance on the part of the Licensee(s) with any rule, regulation or bye-law referred to in clause 1 hereof.

11. The Licensee(s) shall pay all the cost of the stamping and execution of this agreement.

As witness the signatures of the parties hereto the day and year first above written.

Witness to the signature of the Manager of the
for and on behalf of the

Witness to the signature of

APPENDICES E AND F.

Deleted.

G.O. Ms. 998, Rev., d. 6-6-33. B.P. 43, Press, d16-6-33

Appendix G.

Appx. V. *Revision of the rules in the various provinces under the Land Acquisition Act in order to subject the Collector in awarding compensation to the orders of his departmental superiors.*

[Government of India, Revenue and Agricultural Department, Circular No. 9-292-1, dated the 28th June 1906.]

1. The Governor-General in council has recently had under consideration the question of the procedure for the award of compensation for land acquired under the Land Acquisition Act (Act I of 1894). He has ascertained that some doubt exists as to the legal position of the officer exercising the powers of a Collector under the Act, and that in some Provinces it is apparently understood that in making his award the Collector is acting in a judicial or semi-judicial capacity, and is therefore bound by the rules which guide the procedure of an officer acting judicially, and must not be interfered with by his executive superior in conducting his inquiry or in arriving at the amount of his award. Where this view is acted on, it follows that the Collector is reluctant to receive any evidence not brought before him judicially; and as the Collector's award is binding against Government, it cannot be contested in the Civil Court in the interests of Government, even though the Collector's superior officers may be of opinion that he has made too liberal an award.

2. This doubt has now been removed by an authoritative decision of the Judicial Committee of the Privy Council and I am directed to invite attention to their judgment in the suit Ezra *v.* The Secretary of State for India, which will be found in the Indian Law Reports, XXXII Calcutta series, page 605, and in particular to those parts of the judgment of the Calcutta High Court in the case which deal with the position of the Collector (or other acquiring officer duly empowered) under the Act. It will be seen that the Judges have held that " he is, in no sense of the term, a judicial officer; nor is the proceeding before him a judicial proceeding." It is explained that the Collector acts as the Agent of the Government or of the Company for which the Government take up the land, and that they are accordingly bound by the award of their agent; while if a judicial decision as to the value is desired by the owners he can obtain it by requiring the matter to be referred by the Collector to the Court. The learned Judges, therefore, held that the inquiry and valuation made by the Collector are departmental in their character, for the purpose of enabling the Government to make a tender through him to the persons interested, and that it is open to him, in making his award as to the compensation to be offered, to consider all available information on the question.

3. It follows from this decision that as the Collector in making an inquiry and award under the Act is merely the departmental agent of the Government it is open to the Local Government to issue instructions as to the information he is to take into account in making his valuation, as to the course to be taken by him when he finds, as the result of his inquiry, that the amount of the compensation, which in his opinion should be allowed for the property, largely exceeds the estimates on which the acquisition was sanctioned.

4. I am directed to suggest that, where necessary, the rules in force under the Act should be revised in accordance with this decision, provision being made that in all cases in which land is acquired for Government or for a local body or company—

(1) The Collector of the district in which the property to be acquired is situated should be consulted in framing the original estimates, and his opinion as to the rates to be adopted should be given full consideration.

(2) The officer making the award should give sufficient notice to the departmental or other officer concerned, and should take into consideration any representation which such officer may make, whether it is made orally or by letter. More especially he should, before making the award, allow such officer an opportunity of appearing in person or by agent and of producing evidence as to the value of the land. Appx. V

(3) If the officer making the award is not the Collector of the district, he might be required before making the award, to refer to the Collector any case in which he proposes to award more than 10 per cent in excess of the original estimates or more than Rs. 10,000 or some similar limit. The Collector should have the power of requiring all cases to be referred to him before the award is given, and the acquiring officer should make his final award according to the instructions received from the Collector.

(4) When a case has been referred to the Court, the Collector should arrange for the defence of his award as if it were a suit against Government.

APPENDIX H.

Private negotiations with owners of land to be acquired for a public purpose.

[Government of India, Public Works Department, letter No. 1780-R.C., dated the 12th November 1904.]

I am directed to state, with reference to the rules relating to the acquisition of land for railways issued with Public Works Department Circular No. IV-Ry., dated the 4th September 1897, that the Government of India have had under consideration the question of permitting departmental and local officers to negotiate either directly or by deputy in certain cases, with the owners of land about to be taken up or acquired for a public purpose, with the object of coming to an amicable agreement with them as to the price to be paid *previous* to the initiation of proceedings under the Land Acquisition Act, and with a view of guarding against subsequent exorbitant demands or awards.

2. The Government of India are of opinion that there is no objection to the adoption of the procedure indicated above, in cases in which it may be considered that its application would result in economy, and to the statement of the settlement thus arrived at being communicated to the Land Acquisition Officer, who though not strictly bound to accept in his award the price agreed on beforehand, will no doubt do so in ordinary cases.

3. I am to point out that, as it is considered necessary that there shall always be a perfectly clear understanding as to whether the price agreed upon does or does not include the additional 15 per cent due under section 23 (2) of the Act, the statement of the settlement arrived at through the deputy agent or broker should take the form of an agreement that the owner is willing to sell for a certain specified sum *plus* 15 per cent for compensation, the sum of the two being the actual price agreed on. In all cases it is necessary that the final acquisition shall be effected in accordance with the procedure of the Act as indefeasible title is thereby secured.

4. With these remarks I am to request that when it is proposed to take up land in the neighbourhood of large cities, or other congested areas, the desirability of adopting the preliminary measures indicated above, may be fully considered.

Appx. V. 5. If a broker or agent is employed, any fee that it may be proposed to pay to him will require the sanction of the Government of India. Such fee would not ordinarily be made dependent on the price eventually paid. When a fee is sanctioned and paid, it would be treated as part of the cost of acquiring the land and would be accounted for accordingly.

APPENDICES I AND J.

Deleted.

G.O. Ms. 998, Rev., d. 6-6-33. B.P. 43, Press, d. 16-6-33.

APPENDIX K.

Preparation of estimates of the cost of land required for Railway or other large public projects.

[Government of India, Public Works Department, Circular No. XI-Ry., dated 21st September 1895.]

Cases have recently come to the notice of the Government of India in which the cost of land taken up for railway purposes has exceeded by several hundreds per cent the cost shown in the detailed estimates; and while in some cases this difference appears to have been due to the inadequacy of the estimates, in others it was certainly caused, at least in part, by the exorbitant nature of the Collector's award under the Land Acquisition Act. It appears, therefore, advisable to issue instructions with the view of securing greater accuracy in the estimates and closer supervision over the awards, when land is taken up for large public projects of whatever nature.

2. In paragraph 8, Chapter V, of the rules for the preparation of railway projects, it is laid down that the data for the preparation of estimates of the cost of land should be obtained from the Civil authorities who are responsible for the valuation and assessment of all land taken up for public purposes. This rule has not always been observed in recent instances. Its observance is most important, as the Public Works Department authorities are not in a position to frame an estimate with any approach to accuracy.

3. The Civil authorities should, therefore, be in all cases requested to furnish data in the shape of rates per acre. This, however, they cannot do unless they are furnished with information as to the situation of the land to be taken up, as it is impossible to quote rates which shall be even approximately true for the whole of a large tract. A separate sketch map should, therefore, be furnished for each district traversed by the railway, canal, or other works, showing the exact course of the centre line of the land to be taken up, with reference to villages and towns. This map should be to a scale of one inch to the mile and should show village boundaries wherever they have been surveyed. The distances should also be marked upon it, and the average width of the strip to be taken up should be stated. For land near towns, or which for other reasons is likely to have a specially high value, a map to a sufficiently large scale should be prepared, showing the approximate boundaries of the land likely to be required, with a note of any valuable trees, buildings or other

property for which compensation will have to be paid in addition to the price of the land itself. The Civil authorities' data will then take some such form as the following :— Appx. V.

Miles.	Rupees per acre.			Remarks.
	Cultivated.		Uncultivated.	
	Irrigated.	Unirrigated.		
3—15	80 *	30	10	
15—17	300	120	30	Town lands of Rampur. †
17—27	50	25	5	

* *Note.*—Land under tea will average about Rs. 800 per acre.

† *Note.*—Land within municipal limits will cost about Rs. 900 an acre, and in the town itself say Rs. 3 a square yard.

3-A. In addition to the data prescribed in paragraph 3, the Civil authorities should give a rough estimate of the amount of such further items (if any) as are likely to be included in an award based on section 23 (1) of the Land Acquisition Act including, when necessary, an estimate of the capitalized value of abated land revenue and charges for establishment and contingencies. It will rest with the authorities, to whom the data prescribed by this paragraph and paragraph 3 above are supplied, to work out the total estimated cost of the acquisition including (in cases where voluntary surrender is not probable) the additional 15 per cent laid down by section 23 (2) of the Act.

4. When the work is confined to a single district, the application should be made to the district officer; when it extends to more than one district, but lies within a single division, to the Commissioner; when to more than one division, to the chief revenue authority of the province. When the estimated value of the land exceeds Rs. 25,000 in any district or one lakh in any division, the data must be forwarded to the Public Works Department authorities through the Commissioner or chief revenue authority, respectively, who will countersign them and be responsible for them.

5. General rules should be framed in every province for the guidance of officers in estimating the value of land taken up under the Land Acquisition Act. It must be remembered that, while the owner of the land possesses the power of appeal from the award of the Collector, Government is deprived of that power, solely because it possesses executive control over his operations; and it is most important that such control should be efficiently exercised in the interests of the general tax-payer. The rules should lay down the data which should be collected and the principles upon which the award should be based.

6. When any considerable area of land is to be taken up for public purposes, a special officer should be deputed for the purpose, and care must be taken in his selection. Any special instructions that may be considered necessary in addition to the general rules above mentioned, should be carefully framed for his guidance, as for instance when land under tea or indigo has to be taken up. He should be furnished with the data mentioned in paragraph 3, and provision should be made for the exercise of effective control over his operations by the Collector of the district, to whom all his awards should be reported, so far as

Appx. V. to show the area, kind of soil, rate per acre, and total amount in each case. Provision should be made that, in case of any proposed award exceeding largely the estimated rate, and the award being such that it will be the basis of or constitute a precedent for any very considerable expenditure, it should be reported for the Collector's approval *before* being announced. And if in the course of his proceedings the special officer finds that his awards are likely to exceed the aggregate estimate for the district by, say, 25 per cent or more, a report should be submitted through the Collector to the Commissioner (and if the excess involved exceeds a lakh of rupees, to the Local Government) and further announcement of awards suspended till the latter's orders are received.

7. Whenever it is found that the original rates were materially underestimated, and no sufficient reason is apparent, the officers responsible for them should invariably be called on to explain, as in no other way can the importance of framing the original estimates with care be effectually brought home to them.

8. Such are the general principles which the Government of India desire to see observed in the matter. The conditions of the several provinces vary so widely that details must be left to Local Governments. But all Local Governments and Administrations should proceed to frame rules giving general effect to the above principles and indicating the points as to which supplementary instructions will be required, based upon the circumstances of each individual case.

APPENDIX L.

Secretary of State's Rules.

As promulgated in Finance Department Resolution No. D-3428-A of 10th December 1925 and Notes thereto regulating the transfer of State Lands and Buildings between the Government of India and the Local Government of any Governor's Province.

Preamble.—(i) All the rules in this resolution are applicable to lands as well as to buildings, and have effect from the 19th November 1925, the date of the Secretary of State's despatch on the subject.

(ii) Adjustments between Railway Administrations and Local Governments in the case of land transferred prior to 19th November 1925 should be governed by the old rules then in force.

The new rules will, however, be applicable to those cases in which though the transfers were effected prior to 19th November 1925, the settlement of the pecuniary terms of the transfer had been deliberately kept in abeyance with a view to its determination under these rules.

Rule 1.—The ownership of land, now or hereafter in the occupation of a Government in India vests in the Crown; the Government of India or the Local Government, as the case may be, has the right of user for the effective discharge of its duties under the Government of India Act, and section 30 of the Government of India Act has no application to transfers between Government and Government.

Rule 2 (*a*).—The Government of India has the right to remain in undisturbed possession of any land in its occupation in any province on 1st April 1921, subject to the conditions then ruling, *so long as such occupation is necessary for the effective discharge of its duties.*

(*Note.*—The Government of India, and not the Local Government, should be regarded as having been in occupation, on 1st April 1921, of any property used on that date for the discharge by a Local Government of its functions as Agents of the Government of India administering a Central subject.)

(*b*) A Local Government has no power without the consent of the Government of India to alienate *or in any way to interfere* in regard to Land situate within the Provincial boundaries which is in the occupation of the Central Government. Appx. V.

Rule 3.—If the Local Government is of opinion that Land in the occupation of the Government of India is not being used for the purposes originally intended AND is not required by that Government *for the effective discharge of its duties*, the Local Government shall be entitled to make a representation on the subject to the Government of India, and, in the event of a difference of opinion arising between the two Governments, to request that the matter be referred for the decision of the Secretary of State in Council.

(*Note.*—* The phrase "the effective discharge of its duties" is not to be interpreted in any narrow or restrictive sense. Whether a certain quantity of Land is or is not required by the Government of India for the effective discharge of its duties must be judged not merely with reference to the actual circumstances of the moment, but also with reference to further possible developments and the ideal administrative standard that the Government of India can properly contemplate.)

Rule 4.—When the Government of India no longer require Land which is in their possession, the Local Government of the Province in which it is situate shall be given the option of assuming possession of the whole or any portion thereof, subject to the conditions laid down in the following clauses: provided that (i) when the Local Government desires to assume possession of only a portion of the Land surrendered it shall only be entitled to do so if the value of the Land not taken over is not materially reduced by the division, and (ii) a Local Government shall not be entitled to demand the surrender of isolated plots of land within cantonment or other areas on the ground that such plots are not actually required for the discharge of specific military duties.

Rule 5.—In the case of Land acquired by the Government in any Province *before* 1st *April* 1921 and surrendered after that date to the Local Government the amount of compensation, if any, payable to the Government of India by the Local Government to whom possession is surrendered in any given case shall be determined in accordance with the principles set out below :—

I. (A) *In the case of Land other than that relinquished by a Railway Administration* if the surrender of Land involves expenditure to the Government of India for the acquisition of an alternative site, or if, in the case of Land surrendered by the Military Authorities, the Land was actually being used by them for the effective discharge of their duties, the amount of compensation payable by the Local Government shall be limited to the *market value* of the buildings, if any, *plus*—

(*a*) the cost, if any, of acquisition and improvements of the Land, or

(*b*) half the *market value* of the Land, whichever is *greater*.

(B) In other cases the amount payable by the Local Government shall be limited to the *market value* of the buildings, if any, *plus*—

(*a*) the cost, if any, of acquisition and improvements, or

(*b*) the *market value* of the Land, whichever is *less* :

Provided that in the case of Land surrendered by the Military Authorities in Presidency towns, Rangoon, Karachi, or any Cantonments in which the Land has a specially high value, the terms on which the Land shall be transferred shall be decided by mutual arrangement under Rule 10 below.

* Not in the Resolution; but in the Secretary of State's Despatch No. 9-Financial of 12th February leading up thereto.

Appx. V.

II. *In the case of land relinquished by a Railway Administration*, the Local Government shall be required to pay to the Government of India or the Railway Administration, as the case may be, the market value of the Land and Buildings surrendered.

(*Note.*—" Market value " means the market value on the date of transfer to the Local Government and includes the capitalized value of Land revenue IF such capitalized value was included in the value of the Land at the time of its acquisition for the Central Government.)

Rule 6.—The Local Government will be at liberty to sell or lease to a third party land of which it assumes possession under rule 5; but if such sale or lease takes place within five years from the date of such assumption and the purchase price or capitalized value of the full market rent (including land revenue or ground rent) is more than double the amount payable by the Local Government under Rule 5, the amount so payable shall be raised to half the purchase price or the capitalized value of the rental as the case may be; *provided that*

(i) in exceptional cases (in such cases rule 10 or 11 might be applied) where special reasons exist, the Government of India shall be entitled to claim a larger share, or even the whole, of the purchase price, or the capitalized value of the rental, and

(ii) if improvements have been effected by the Local Government during the period of its occupation of the Land, the disposal value of such improvement shall be deducted from the purchase price before the division of the sale proceeds.

Rule 7.—In the case of Land acquired by the Government of India in any Province *after* 1*st April* 1921, the amount payable by the Local Government on re-transfer shall be the *market value* of the Land and buildings.

Rule 8.—If they do not desire to assume possession on these terms, the Government of India shall be free to dispose of Land to a third party in such manner *as it thinks fit after consultation with the Local Government* regarding the manner of disposal and conditions, if any, which should be laid down for the use of the Land after sale.

(*Note* 1.—The principles laid down in the Resolution of the Government of India in the Department of Revenue and Agriculture, No. 13-44-13, dated the 30th October 1896, may be observed in making recommendations to the Government of India for the disposal of Land under this rule.

(*Note* 2.—Land sold by the Central Government to third parties becomes subject to the provisions of the Provincial Land Revenue enactments, *except* in certain cases where the capitalized value of the Land Revenue has been paid to the Local Government. In the latter class of cases, the Central Government is entitled to dispose of the Land as a revenue free holding if the Local Government does not repay the capitalized value of Land Revenue.)

Rule 9.—A Local Government shall be bound to acquire and hand over to the Government of India any Land in the Province required by the Government of India for the effective discharge of its duties on payment—

(*a*) If the Land *is not* in immediate occupation of the Local Government, of the cost of acquisition, or

(*b*) If the land *is* in its immediate occupation, the market value:

provided that the Government of India shall have the right to refer to a competent tribunal, or with the agreement of the Local Government to arbitration, the question of the reasonableness of the payment demanded.

(*Note* 1.—The capitalized value of Land revenue assessable on the Land should be included in the payment to be made to the Local Government for Land acquired under this Rule only in cases where the transfer of the Land to the Government of India causes

actual loss of Land revenue to the Local Government. Where Lands are at the disposal of a Local Government and the latter does not derive any Land revenue therefrom, it can have no claim in equity to compensation for a loss which does not arise. Appx. V.

Note 2.—A Local Government cannot charge Land revenue on Land transferred to the Government of India as Land, which vests in the Crown and is at the disposal of the Government of India, cannot constitutionally be treated as liable to Land revenue, the ultimate reason being that the Local Government could only effect recovery in the name of the Secretary of State in Council, while recovery could only be effected from the Government of India under the same name.

Note 3.—In cases where the rights in the Land required by the Government of India vest *in part* in a Local Government and *in part* in a private party, the expression "cost of acquisition" means the market value of the Land *plus* the outlay incurred by the Local Government in the Land acquisition proceedings *minus* the market value of the rights extinguished by the Land acquisition proceedings.

Note 4.—Although the acquisition of Land by a Provincial Government on behalf of the Central Government is a function appertaining to the Provincial subject of "Land acquisition" and cannot be treated as an agency function, a Provincial Government may be reimbursed the cost of *any special establishment* employed on the work connected with such acquisition.

Note 5.—All waste lands not in the occupation of the Government of India in respect of which there are no rights adverse to the Crown may be regarded as being in the immediate occupation of a Local Government.)

Rule 10.—The foregoing rules shall not be held to preclude a settlement by mutual arrangement between the Government of India and the Local Government or Governments concerned, *even though* the terms of the settlement may be inconsistent with them.

Rule 11.—If any question arises between the Government of India and a Local Government in regard to the application of these Rules, the matter shall be referred to the Secretary of State in Council for decision, if the Local Government so desires.

Rule 12.—* It shall not be competent to a Local Government to sell to a third party or otherwise dispose of Lands situate within the limits of its Government which is in the occupation of the Governor-General in Council, save in accordance with the instructions contained in the foregoing Rules.

* Supplementary Resolution, enclosure to Secretary of State's Despatch No. 54-Financial of 19th November 1925.

G.O. Ms. 998, Rev., d. 6-6-33. B.P. Ms. 43, Press, d. 6-6-33.

Note.—The rules contained in this Appendix have been revised by the Government of India. The revised instructions regarding the transfer of lands and buildings between the Central and State Governments are contained in Board's Standing Order No. 23.

G.O. Ms. 2065, Rev., d. 17-5-57.

APPENDIX M.

Conditions for grant of immovable public property to local authorities for public purposes.

[Resolution by the Government of India, Department of Finance and Commerce No. 914-A, dated 19th February 1902.]

READ—

Resolution in the Finance and Commerce Department, No. 4374, dated 23rd October 1891, directing that when any immovable public property i made over to a local authority for public purposes, the grant shall be mad expressly on the condition, in addition to any others that may be settled, tha should the property be at any time resumed by Government the compensation

Appx. V. payable therefor shall in no case exceed the amount (if any) paid to Government for the grant, together with the cost or their present value, whichever shall be the less, of any buildings erected or other works executed on the land by the local authority.

Resolution.—The Governor-General in Council considers it desirable that the condition laid down in the Resolution read above, in the case of grants of immovable public property to local authorities for public purposes, should be attached generally to all grants of such property whether for public, religious, educational, or any other purposes. His Excellency in Council also considers that these grants should in all cases be made subject to the further condition that the property shall be liable to be resumed by Government if used for any purposes other than those for which the grants are made.

2. In future, therefore, whenever any grant is made of any immovable property, the property shall be granted expressly on the following conditions, in addition to any others that may be settled in particular cases, viz :—

(1) that the property shall be liable to be resumed by Government if used for any other than the specific purpose or purposes for which it is granted; and

(2) that, should the property be at any time resumed by Government, the compensation payable therefor shall not exceed the amount (if any) paid to Government for the grant, together with the cost or their present value, whichever shall be the less, of any buildings erected or other works executed on the land by the grantees.

APPENDIX N.

Government of the India Resolution concerning the disposal of lands compulsorily required under the have Acquisition Act (I—1894) for some public purpose but no longer required for such purpose.

[Government of India, Revenue and Agriculture Department, Resolution No. 13-44-13, dated Simla, the 30th October 1896.]

READ—

Circular No. 2-44-1, dated 23rd January 1895, asking for the opinion of Local Governments and Administrations on certain proposals regarding the disposal of lands compulsorily acquired under the Land Acquisition Act (I of 1894) for some public purpose, but no longer required for such purpose.

Read also the following replies to the above Circular :—

From the Chief Commissioner of Burma, No. 574-1-A-10, dated the 27th February 1895.

From the Chief Commissioner of Coorg, No. 363-18-95, dated the 7th March 1895.

From the Government of Madras, No. 1426, dated the 5th April 1895.

From the Chief Commissioner of Ajmer-Merwara, No. 475, dated the 30th April 1895.

From the Government of the North-Western Province and Oudh, No. 1088, dated the 3rd May 1895.

From the Chief Commissioner of Assam, No. 204-Rev.-1612-R., dated the 14th May 1895.

From the Resident at Hyderabad, No. 154, dated the 4th June 1895.

From the Chief Commissioner of Central Provinces, No. 3475, dated 8th August 1895.

From the Government of Bombay, No. 7012, dated 11th September 1895. Appx. V.

From the Government of the Punjab, No. 667, dated 31st October 1895.

From the Government of Bengal, No. 861-T.R., dated 2nd November 1895.

Observations.—In the Circular cited in the preamble, the Government of India stated the principles which they suggested should govern the disposal of lands which, having been compulsorily acquired for public purposes, are no longer required for those purposes, and asked for the views of the Local Governments and Administrations on the subject. They pointed out that when agricultural or pastoral land was thus acquired, and injury was in most cases inflicted upon the persons who owned and cultivated the land; that public necessity justified the infliction of the injury, but that so soon as that necessity ceased to exist, considerations of equity and good policy demanded that, so far as might be possible, the injured persons should be replaced in the position which they formerly occupied. They therefore proposed that whenever land that had been compulsorily acquired for public purposes was released from occupation, the rights either of property or of occupancy which had been extinguished by the acquisition should first be offered to the persons from whom they had been acquired, or to their representatives, and that they should be so offered at the price at which they had been originally purchased, modified only on account of any change in the fitness of the land for agricultural or pastoral purpose that might have been taken place during the term of Government occupation.

The replies received show that the views of the Government of India meet with general approval. Objections have however been raised on points of detail, and additions have been suggested, the more important of which will be briefly noticed.

2. It has been suggested that the same considerations should be extended to the case of land acquired by Government by private purchase. When the sale has been really voluntary, as when an estate has been purchased in open market, there seems no reason why Government should be fettered in the disposal of its property if no longer required. But when land is acquired *for a public purpose*, so that the compulsory provisions of the law can be enforced if necessary, this fact must always form an element in the transaction, even if the purchase is concluded by consent; and the Government of India agree that in these cases also the principles supported by them should apply.

3. Some misapprehension seems to have arisen as to what was meant by the "Representatives" of the original right holders to whom the Government of India proposed that the first offer should be made. It is clear that if A owns 50 acres of land, of which Government acquires 20, and A then sells the remaining 30 acres to B, B does not thereby become A's representative in respect of the 20 acres which he never possessed. The representatives of A to whom the 20 acres should be offered when no longer needed are his heirs and successors.

4. There is, however, one case of frequent occurrence which forms an exception to this rule. It is thus stated by the Punjab Government :—

In a considerable proportion of the cases in which Government no longer required land which it has expropriated, the land would be of so small an area or of such a shape that it would be practically of no value to anyone, but the owners of the adjoining land, e.g., the side of a small abandoned police post on the side of a road or a stretch of abandoned road extending for a mile or so in

Appx. V. length, but of extremely narrow width. If the person from whom the land was acquired or their representatives are still in possession of the adjoining land, they should of course be given the right of pre-emption; but if they have sold the adjoining land to strangers, it is to those strangers the offer should be made, and in their case there would be no reason for offering them the land at less than the then market value.

These remarks have the entire approval of the Government of India.

5. Objection has been taken to the restoration of occupancy rights on the ground of the difficulties, both legal and practical, which are anticipated in working the rule, and because the permanent acquisition of land must be considered to have extinguished those rights. The latter argument applies with equal force to proprietary rights. As for practical difficulties, no doubt the heirs of the occupancy tenant will more often be undiscoverable than the heirs of the owner. But if they cannot be found, the rule will not be applied. When the land is compulsorily acquired, it is often the actual cultivator who suffers the greatest loss; and in most cases the restoration of the occupancy right is quite as important as that of the proprietary right. The Crown Grants Act (XV of 1895) gives Government power to subject its grant of the latter to the revival of the former, and this power should be exercised wherever possible.

6. It has been suggested that the concession should be limited to some prescribed number of years. The native feeling of the persistence of rights in land is very strong, and commonly recognizes no limitation in the matter; while a limitation to the second or third generation, as has been proposed in one province, might lead to difficulties in the case of joint ownership. The Government of India are therefore averse to fixing a limit of times, but they think that when the only representatives of the late owners are remote descendants or relations, the market value of the land may fairly be demanded. So, again, it has been pointed out that cases occasionally occur, such as one noted in the Punjab where an encamping ground originally acquired for a small sum is now worth Rs. 50,000 in which it would be clearly inadvisable to offer the land at the price originally paid for it. On the other hand the cases are much more frequent in which the land that it is proposed to restore has seriously deteriorated. When land has been acquired for the spoil-banks and brick-fields of railways, its agricultural value is almost always impaired very greatly, and it would be unreasonable to ask the price at which it was originally purchased.

7. There is a general consensus of opinion that, in fixing the price at which the land is to be returned to the original right-holder, the 15 per cent which was paid in addition to the market value should be excluded from consideration. This money represents the price paid for disturbance which no subsequent return of the land can undo.

8. The Government of India agree with many of the Local Governments consulted that there is no good reason for excluding from the operation of the general principles land acquired under section 49 (2) of the Act. The owner's action under this section is only occasionally contumacious; and the greatest hardship is often inflicted by the separation of a portion from the body of a holding.

Resolution.—The Government of India desire therefore that whenever *agricultural or pastoral land* has been acquired for public purposes, whether by private purchase or by compulsory acquisition, and is no longer required

for such purposes, the disposal of it may be guided by the following general considerations :— Appx. V.

In the first place all proprietary rights and all rights of occupancy which were extinguished by the acquisition should be first offered to the persons from whom they were acquired, or to their heirs if discoverable ; the former (where both kinds of rights co-existed) being made subject to the latter under the provisions of the Crown Grants Act (XV of 1895).

In the second place the price at which these rights are offered should be the amount of compensation originally paid for them, less the 15 per cent in excess of the value which will have been paid if the acquisition was compulsory. This price may be reduced, if necessary, on account of any deterioration that may have taken place in the fitness of the land for agricultural or pastoral purposes while it was in the occupation of Government, but it should not be increased, except in the case stated below, on account of any rise in its market value during that period.

In the case of plots which by reason of their size or shape are practically of no value to anyone but the owners of the adjoining land if those owners are not entitled to the first offer as above, they ought nevertheless to receive the first offer, but in that case there is no objection to asking the market value, though the reasonable offer of a neighbouring holder should always have the preference over that of an outsider.

The Superior Revenue authority will, of course, always retain and exercise discretion in the application of the general rule about the charge of cost price. Special cases will occur, and exceptions will be justifiable, as for example when the persons first entitled are remote descendants or relations of the original holders, or when the rise in the market value of the land has been so exceptionally great as to take the case out of the general rule. The Government of India lay down no hard and fast rule, but only a principle for general guidance.

It will be observed that the above principles apply to agricultural and pastoral land only, and not to building sites or town lands.

2. It will be for Local Governments and Administrations to issue instructions adapted to local circumstances, in general conformity with the above considerations. Those instructions will be mere executive instructions ; and the greatest care should be taken to avoid anything which might have the semblance of conferring a right, or affording a basis for any claim either as against Government or as between private parties, and to make it clear that the concessions in question are made as an act of grace, and are wholly within the pleasure of Government to grant or to refuse in any particular case.

G.O. Ms. 998, Rev., d. 6-6-33. B.P. 43, Press, d. 16-6-33.

APPENDIX O.

Government of India, Department of Revenue and Agriculture, Circular No. 11, dated Calcutta, 22nd December 1908, to all Local Governments and Administrations (except the United Provinces).

In continuation of this Department's Circular No. 9-292-1, dated 28th June 1906, I am directed to forward for the information of the Governor in Council / the Lieutenant Governor / your information. a copy of the marginally-noted* correspondence regarding the high cost of acquiring a plot of land in Lucknow for use as a brickfield in connexion with the Military Works Services.

* Not printed.

Appx. V.

2. It will be observed that in this case the Collector's award for the land amounted to Rs.3,631-11-7 (3,631 nP.69),*and that on appeal this was enhanced to Rs..14,665. The enhanced award was considerably in excess of the sum which the Military Works Department was prepared to pay for the land, but it was impossible to withdraw from the acquisition as possession had been delivered soon after the Collector had made his award. Steps have been taken to draw the attention of officers of the Military Works Department to the necessity of caution in taking possession of land acquired in cases where it is possible that the Collector's award may be greatly enhanced on appeal and paragraph 801 of the Public Works Department Code (9th edition) has also been amended recently with the same object. It has further been suggested to the Government of India that it would be an additional safeguard against the recurrence of such cases as that which has given rise to this correspondence if the co-operation of revenue officers employed in land acquisition work were also secured in protecting the interests of Government.

3. The Government of the United Provinces has already taken action in this direction and an amendment has recently been made in the rules for procedure under the Land Acquisition Act in the United Provinces to the effect that if the Collector's awards, as finally settled after objection petitions have been heard, exceeds by more than 20 per cent the preliminary estimate of the cost of acquisition prepared before the issue of a notification under section 6 of the Act, or if the evidence is conflicting and such as to indicate the possibility that a civil court may award a sum similarly exceeding that estimate, he should not immediately announce the award but should inform the departmental officer of the facts. Further action is then postponed until the proper authority has decided whether the acquisition should be proceeded with or not. The Government of India thinks that a rule of this kind is likely to be useful, and I am to ask that, if there is no objection, it may be considered whether a similar rule might not be introduced with advantage into the rules for procedure under the Land Acquisition Act.

* G.O. Rt. 161, Rev., d. 15-3-57.

APPENDIX VI.

RULES LAID DOWN IN 1861 FOR THE ACQUISITION OF LAND REQUIRED FOR RAILWAY PURPOSES BY THE OLD GUARANTEED COMPANIES

1. Land required for railway purposes may be divided into four classes A, B, C and D. First, Class A land which a Railway Company receives free of charge, under the contract with the Government, for permanent occupation. Second, Class B land also provided free of cost, but only for temporary occupation. Third, Class C land which the Railway Company has to provide at its own cost. Fourth, Class D land which does not come directly into the possession of the Railway Company at all.

2. Class A will comprise the land required for the permanent works of a Railway, including the road with its bridges, etc., and all stations, workshops, permanent store-houses and the like, necessary for the line when opened, and which under the contract is to be provided by Government free of cost to the Railway Companies. The occupation of this land by a Railway Company will be so far permanent that it will only cease when their contract is terminated or surrendered and the whole lapses to Government. It is all provided free of charge.

3. Class B will contain land essential for the execution of the permanent works of a Railway, but not required after the completion of the line in part or in whole. It also is provided free of charge; such is land for spoil-banks, for extra excavation to make banks, for river diversion, and for the storage of Railway materials held in stock by the Railway Company, pending the construction of the line, or their despatch to the works. The occupation of this class of land will be temporary. On its restoration to the Government the proper time for which will be settled in each case between the Railway Officers and the consulting Engineer—it will be for the Revenue Officers to dispose of it to the best advantage of Government.

4. Class C will contain the land which a Railway Company has to provide at its own cost. This is land which is required for the provision or preparation of materials; for purposes contingent on the actual execution of the works on the line, or for other miscellaneous objects which the Government recognize as falling legitimately within the scope of the Railway Company's operations, though not giving the Company a claim to the provision of land free of charge. As a Railway Company is bound to pay for the construction of all works out of the capital, receiving only from Government, without charge, the land on which the works stand, the provision of all materials and the means of facilitating the execution of all works are to be at the cost of the Railway Company. It is proper to bear in mind, in fixing the rent, that this land will in part deteriorate by the use to which it is put, and in part will not so deteriorate. In all cases, however, it will be most convenient to deal with the land in the first instance, in the same manner. It will be taken possession of by Government, and handed over to the Railway Company for occupation at a fair rental. When the necessity for occupation ceases, the land will be given up again to Government by the Railway Company, the proper time for this being determined, as under Class B, by the Railway Officers and Consulting Engineers.

5. Class D will contain that land which, being required in consequence of the works of a Railway, still does not come directly into the occupation of the Railway Company; it will be provided free of charge. It will be exclusively

Appx. VI land for roads, either new roads leading to Railway stations, or to permanent store yards or workshops detached from the main works, or diversions or changes of old roads made necessary by Railway works.

6. Inconvenience is likely to arise if Railway Companies are permitted to hold land, on their own account, or otherwise than is above explained. By causing them to rent from the Government all land to which they are not entitled free, in the manner above explained, simplicity in the tenure of their property will be secured, which will be a matter of importance at a future time when the Railway may be transferred to Government. The determination of the value to be paid by the Government for any land not included in Class A, which might be held by a Railway Company, would certainly be, in such an event, a great embarrassment.

G.O. Ms. 713, Rev., d. 16-3-38. B.P. Press, 49, d. 16-5-38.

APPENDIX VII.

Rules for the demarcation of lands acquired for the Public Works Department.

(*a*) All lands acquired for the Public Works Department should have the boundaries marked by demarcation stones, except where a wall runs along the boundary. The demarcation should be done by the acquisition officer, the demarcation stones being provided by the Public Works Department.

(*b*) Demarcation stones should be made of cement concrete (without reinforcement) except where it is cheaper to use granite or other durable stone. The use of laterite is prohibited and demarcation stones should not in future be fixed in concrete [a] except in the cases referred to in Standing Order No. 90, 13 (v) [a].

(*c*) The prescribed dimensions are $2' \times 6'' \times 6''$. The letters P.W.—4″ high and a broad arrow should be cut on one side of the stone. It should be dressed for a height of one foot only and imbedded in the ground to a depth of one foot. If the demarcation stone is made of cement concrete it should follow the design K.C. No. 71/1913–14 (accompaniment to Chief Engineer's Dis. No. 1872, dated 28th October 1914) with the addition of the broad arrow.

(*d*) Demarcation stones should be fixed at all angles along the boundary and at all intersections of survey field boundaries.

(*e*) Wherever two adjacent Public Works demarcation stones fixed under the above rules by the land acquisition officer are more than one furlong apart, an extra Public Works demarcation stone or, if necessary, more than one stone should subsequently be fixed by the Public Works Department on the boundary so as to reduce the interval between two adjacent demarcation stones to less than one furlong. The additional stones fixed in such cases should bear the letters P.W. but not the broad arrow (as they will not be 'survey marks' fixed by the land acquisition officer).

(*f*) Provision will be made in all estimates for the above items.

(*g*) When survey fields are subdivided or resurveyed in consequence of the acquisition of lands for public purposes at the cost of the Public Works Department, such subdivisions or new survey fields should be demarcated by the Revenue Department.

[a] G.O. Mis. 2005, Rev., d. 1–10–29. [a] B.P. Mis. 3078, d. 11–10–29.

G.O. Ms. 2065, Rev., d. 17–5–57.

APPENDIX VIII.

RULEL FOR EHE GUIDANCE OF SPECIAL OFFICERS ENGAGED IN THE SURVEY OF LANDS ACQUIRED FOR RAILWAYS.

1. The special acquisition officer should consult with [a] the Collector of the district [a] as to the *details* of the method of survey to be employed. These must necessarily vary with the nature of the existing survey of the tract and its condition as regards maintenance. The survey should be carried out on the general lines laid down for the demarcation marking and registration of changes in the Revenue registers.

2. The special acquisition officer is responsible for the accuracy of the survey work done by his staff—vide Board's Standing Order No. 90, 13 (iv) (*a*). He should check their work both in the field and in the office and satisfy himself that it has been done properly.

3. The land plans furnished by the Railway Department will show *separately* the boundaries of the lands required for (1) permanent occupation, (2) temporary occupation and (3) road and channel diversions, etc. The different classes of lands should be pegged and lock-spitted on the ground by the Railway Department, and should be surveyed *separately* from one another.

4. The records to be prepared in these cases are—

(1) Subdivision sketches and statements in respect of portions of survey fields acquired and sketches of the new fields formed, if any.

(2) A statement of changes due to land acquisition in the form in the Enclosure.

[a] G O. 542, Rev., d. 17-3-34. [a] B.P. 58, d. 30-4-34.

G.O. Ms. 2065, Rev., d. 17-5-57.

L.A.M—16A

ENCLOSURE.

Number of present survey field or subdivision.	Its classification, survey area and assessment.			Names of present registered holders.	Particulars of the proposed subdivisions.					Names of proposed registered holders.	Signature of parties.	Remarks.			Number of subdivisions in the field fit for clubbing and whether the holder thereof has any objections to their being clubbed.
	Dry, wet or poramboke.	Survey area.	Assessment.		Dry, wet or poramboke.	Subdivision number or letter.	Extent according to the area square.	Adjusted extent with reference to column (3).	Assessment.			Are there well defined boundaries on the ground and whether the subdivisions have been duly demarcated where necessary.	Reasons for omissions, if any, on the part of the parties to sign in column (12).	Reasons for subdivision.	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
		ACS.	RS. NP.				ACS.	ACS.	RS. NP.						
25-1 ..	Dry.	1·10	0 69	..	Dry	25/1-A	0·09	0·09	0 06	..	..	..	..	..	..
					Railway permt.	25/1-B	0·26	0·26	..	..	..	..	..	..	..
					Railway tempy.	25/1-C	0·49	0·48	..	..	..	..	..	..	..
					Dry	25/1-D	0·27	0·27	0 17	..	..	..	..	..	..
							1·11	1·10	..						
25-2 ..	Do.	1·05	0 69	..	Dry	25/2-A	0·12	0·12	0·08	..	..	..	..	..	..
					Railway permt.	25/2-B	0·29	0·29	..	..	..	..	..	..	..
					Railway tempy.	25/2-C	0·40	0·39	..	..	..	..	..	..	..
					Dry	25/2-D	0·25	0·25	0·17	..	..	..	..	..	..
							1·06	1·05	..						
26 ..	Do.	1·50	0 94	..	Dry	26/1	0·48	0·47	0·30	..	..	..	..	..	..
					Railway permt.	26/2	0·59	0·57	..	..	..	..	..	..	..
					Railway tempy.	26/3	0·47	0·46	..	..	..	..	..	..	..
							1·54	1·50	..						

Notes.—(1) The actual areas of the new subdivisions should first be computed by means of the area square paper and then adjusted in accordance with the instructions given in Chain Survey Manual. The former extent should be noted in column (8) and the latter in column (9) of the subdivision statement.

(2) Details must be given in columns (1) to (5) for the subdivisions mentioned in column (16) as fit for clubbing.

G.O. Rt. 161, Rev., d. 15-3-57.

Statement of changes due to land acquisition.

Particulars of land before change.				Total number of sub-divisions or new survey fields sanctioned.	Particulars of land after changes. NOTE.—In case of lands resurveyed. only resurvey particulars should be noted.				Remarks. (Here enter explanation for discripancies between areas as per particulars before change and particulars after change. Also note the award number and date.)
Survey numbers and sub-divisions.	Description.	Area.	Assessment.		Survey numbers and sub-divisions.	Description.	Area.	Assessment.	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
		ACS.	RS. NP.				ACS.	RS. NP.	
25-1 ..	Dry ..	1·10	0 69		25 A-1	Dry ..	0·09	0 06	
					25 A-2	Dry ..	0·12	0 06	
							0·21		
25-2 ..	Dry ..	1·05	0 69	8	25 B-1	Railway temporary. ..	0·87	..	
					2	Dry ..	0·27	0 19	
					3	Dry ..	0·25	0 19	
							1·39		
26 ..	Dry ..	1·50	0 94		26 A	Dry ..	0·47	0 31	
					26 B	Railway temporary.	0·46	..	
					356	Railway permanent.	1·13	..	A small portion of S. No. 28 has been adjusted against new S. No. 356 to make its boundary a straight line.

G.O. Rt. 161, Rev., d. 15-3-57.

APPENDIX IX.

THE LAND ACQUISITION (MINES) ACT BEING ACT NO. 18 OF 1885.

An Act to provide for cases in which mines or minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870.

WHEREAS it is expedient to provide for cases in which mines or minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870; It is hereby enacted as follows:—

Short title, commencement and local extent.

1. (1) This Act may be called The Land Acquisition (Mines) Act, 1885; and (2) It shall come into force at once; (3) It extends in the first instance to the States of Madras, Andhra, West Bengal, Bihar, Assam and Orissa, but the Government of any State may, from time to time, by notification in the Official Gazette, extend this Act to the whole or any specified part of the territories under its administration.

Saving for mineral rights of the Government.

2. Except as expressly provided by this Act nothing in this Act shall affect the right of the Government to any mines or minerals.

Declaration that mines are not needed.

3. (1) When the appropriate Government makes a declaration under section 6 of the Land Acquisition Act, 1870, that land is needed for a public purpose or for a Company, it may, if it thinks fit, insert in the declaration a statement that the mines of coal, iron-stone, slate or other minerals lying under the land or any particular portion of the land, except only such parts of the mines or minerals as it may be necessary to dig or carry away or use in the construction of the work for the purpose of which the land is being acquired, are not needed.

(2) When a statement as aforesaid has not been inserted in the declaration made in respect of any land under section 6 of the Land Acquisition Act, 1870, and the Collector is of opinion that the provisions of this Act ought to be applied to the land, he may abstain from tendering compensation under section 11 of the said Land Acquisition Act in respect of the mines, and may—

(a) when he makes an award under section 14 of that Act, insert such a statement in his award;

(b) when he makes a reference to the Court under section 15 of that Act, insert such a statement in his reference; or

(c) when he takes possession of the land under section 17 of that Act, publish such a statement in such manner as the appropriate Government may, from time to time, prescribe.

(3) If any such statement is inserted in the declaration, award or reference, or published as aforesaid, the mines of coal, iron-stone, slate or other minerals under the land or portion of the land specified in the statement, except as aforesaid, shall not vest in the Government when the land so vests under the said Act.

Appx. IX.

Notice to be given before working mines lying under land.

4. If the person for the time being immediately entitled to work or get any mines or minerals lying under any land so acquired is desirous of working or getting the same, he shall give the appropriate Government notice in writing of his intention so to do sixty days before the commencement of working.

Power to prevent or restrict working.

5. (1) At any time or times after the receipt of a notice under the last foregoing section, and whether before or after the expiration of the said period of sixty days, the appropriate Government may cause the mines or minerals to be inspected by a person appointed by it for the purpose ; and

(2) If it appears to the appropriate Government that the working or getting of the mines or minerals, or any part thereof, is likely to cause damage to the surface of the land or any works thereon, the appropriate Government may publish a declaration of its willingness, either—

(*a*) to pay compensation for the mines or minerals still unworked or ungotten, or that part thereof, to all persons having an interest in the same ; or

(*b*) to pay compensation to all such persons in consideration of those mines or minerals, or that part thereof, being worked or gotten in such manner and subject to such restrictions as the appropriate Government may in its declaration specify.

(3) If the declaration mentioned in case (*a*) is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person.

(4) If the declaration mentioned in case (*b*) is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person save in the manner and subject to the restrictions specified by the appropriate Government.

(5) Every declaration made under this section shall be published in such manner as the appropriate Government may direct.

G.O. Ms. 1456, Rev. d. 6-6-38. B.P. 99, Press, d. 8-9-38.

Mode of determining persons interested and amount of compensation.

6. When the working or getting of any mines or minerals has been prevented or restricted under section 5, the persons interested in those mines or minerals and the amounts of compensation payable to them respectively shall subject to all necessary modifications, be ascertained in the manner provided by the Land Acquisition Act, 1870, for ascertaining the persons interested in the land to be acquired under that Act, and the amounts of compensation payable to them, respectively.

If appropriate Government does not offer to pay compensation, mines may be worked in a proper manner.

7. (1) If before the expiration of the said sixty days the appropriate Government does not publish a declaration as provided in section 5, the owner, lessee, or occupier of the mines may, unless and until such a declaration is subsequently made, work the mines or any part thereof in a manner proper and necessary for the beneficial working thereof, and according to the usual manner of working such mines in the local area where the same are situate.

(2) If any damage or obstruction is caused to the surface of the land or any works thereon by improper working of the mines, the owner, lesser or occupier of the mines shall at once, at his own expense, repair the damage or remove the obstruction, as the case may require.

(3) If the repair or removal is not at once effected, or, if the appropriate Government so thinks fit, without waiting for the same to be effected by the owner, lessee or occupier, the appropriate Government may execute the same and recover from the owner, lessee or occupier the expense occasioned thereby.

Mining communications.

8. If the working of any mines is prevented or restricted under section 5, the respective owners, lessees and occupiers of the mines, if their mines extend so as to lie on both sides of the mines the working of which is prevented or restricted, may cut and make such and so many airways, headways, gateways or water-levels through the mines, measures or strata, the working whereof is prevented or restricted, as may be requisite to enable them to ventilate, drain and work their said mines; but no such airway, headway, gateway, or water-level shall be of greater dimensions or section than may be prescribed by the appropriate Government in this behalf, and, where no dimensions are so prescribed, not greater than 8 feet wide and 8 feet high, nor shall the same be cut or made upon any part of the surface or works, or so as to injure the same, or to interfere with the use thereof.

Appropriate Government to pay compensation for injury done to mines.

9. The appropriate Government shall, from time to time, pay to the owner, lessee or occupier of any such mines, extending so as to lie on both sides of the mines, the working of which is prevented or restricted, all such additional expenses and losses as may be incurred by him by reason of the severance of the lands lying over those mines or of the continuous working of those mines being interrupted as aforesaid, or by reason of the same being worked in such manner and under such restrictions as not to prejudice or injure the surface or works, and for any minerals not acquired by the appropriate Government which cannot be obtained by reason of the action taken under the foregoing sections, and if any dispute or question arises between the appropriate Government and the owner, lessee or occupier as aforesaid, touching the amount of those losses or expenses, the same shall be settled as nearly as may be in the manner provided for the settlement of questions touching the amount of compensation payable under the Land Acquisition Act, 1870.

And also for injury arising from any airway or other works.

10. If any loss or damage is sustained by the owner or occupier of the lands lying over any such mines, the working whereof has been so prevented or restricted as aforesaid (and not being the owner, lessee or occupier of those mines), by reason of the making of any such airway or other works as aforesaid, which or any like work it would not have been necessary to make but for the working of the mines having been so prevented or restricted as aforesaid, the appropriate Government shall pay full compensation to that owner or occupier of the surface lands for the loss or damage so sustained by him.

Power to officer of appropriate Government to enter and inspect the working of mines.

11. For better ascertaining whether any mines lying under land acquired in accordance with the provisions of this Act are being worked, or have been worked, or are likely to be worked, so as to damage the land or the works thereon, an officer appointed for this purpose by the appropriate Government may, after giving twenty-four hours' notice in writing, enter into and return from any such mines or the works connected therewith; and for that purpose the officer so appointed may make use of any apparatus or machinery belonging to the owner, lessee or occupier of the mines, and use all necessary means for discovering the distance from any part of the land acquired to the parts of the mines which have been, are being, or are about to be worked.

Appx. IX.

12. If any owner, lessee or occupier of any such mines or works refuses to allow any officer appointed by the appropriate Government for that purpose to enter into and inspect any such mines or works in manner aforesaid, he shall be punished with fine which may extend to two hundred rupees.

Penalty for refusal to allow inspection.

13. If it appears that any such mines have been worked contrary to the provisions of this Act, the appropriate Government may, if it thinks fit, give notice to the owner, lessee or occupier thereof to construct such works and to adopt such means as may be necessary or proper for making safe the land acquired and the works thereon, and preventing injury thereto; and if, after such notice, any such owner, lessee or occupier does not forthwith proceed to construct the works necessary for making safe the land acquired and the works thereon, the appropriate Government may itself construct the works and recover the expense thereof from the owner, lessee or occupier.

If mines worked contrary to provisions of this Act, appropriate Government may require means to be adopted for safety of land acquired.

14. When a statement under section 3 has been made regarding any land, and the land has been acquired by the Government, and has been transferred to or has vested by operation of law in a local authority or company, then sections 4 to 13, both inclusive, shall be read as if for the words "the appropriate Government" wherever they occur in those sections, except section 5, sub-section (5) and section 8, the words "the local authority or company, as the case may be, which has acquired the land" were substituted.

Construction of Act when land acquired has been transferred to a local authority or company.

G.O. Ms. 1456, Rev. d. 6-6-38. B.P. 99, Press, d. 8-9-38.

15. *Deleted.*

16. In this Act—

(*a*) "local authority" means any municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of any municipal or local fund, and

Definition of local authority and company.

(*b*) "Company" means a company registered under any of the enactments relating to companies from time to time in force in the States or formed in pursuance of an Act of Parliament of the United Kingdom or by Royal Charter or Letters Patent.

(*c*) "Appropriate Government" means in relation to acquisition of land for the purposes of the Union, the Central Government, and in relation to acquisition of land for any other purposes, the State Government.

This Act to be read with Land Acquisition Act, 1870

17. This Act shall, for the purposes of all enactments for the time being in force, be read with and taken as part of the Land Acquisition Act, 1870.

APPENDIX X.

MADRAS ACT No. VII OF 1920, CHAPTER VII.

Land Acquisition.

* * * * *

Modification of Land Acquisition Act.

33. Immovable property required for the purposes of a town-planning scheme shall be deemed to be land needed for a public purpose, within the meaning of the Land Acquisition Act, 1894, and may be acquired—

(*a*) under the said Act, or

(*b*) under the said Act as modified in the manner hereinafter provided in this chapter.

Notification under section 14 to have effect as declaration under section 6, Land Acquisition Act.

34. In cases falling under clause (*b*) of section (33) a notification under section 14 shall, notwithstanding anything contained in the Land Acquisition Act, 1894, operate in respect of any land for the purposes of the scheme as a declaration under section 6 of the said Act, and no further declaration shall be necessary, but it shall not be incumbent on the State Government, or officer authorized in that behalf, to take immediate steps, for the acquisition of such land. Provided that if the land is not acquired within three years from the date of the notification, it shall cease to have effect as a declaration under section 6 of the Land Acquisition Act, 1894.

Sections 15, 23 and 24 of Land Acquisition Act superseded.

35. (1) The provisions of sections 15, 23 and 24 of the Land Acquisition Act, 1894, shall have no application in cases falling under clause (*b*) of section 33.

(2) In such cases, the Collector and the Court shall, in determining the amount of compensation to be awarded for the land acquired, take into consideration—

(*a*) the market value of the land at the date of publication of the notification under section 10 or section 12, as the case may be ;

(*b*) the damage sustained by the person interested by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof ;

(*c*) the damage if any sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land or by reason of the acquisition injuriously affecting his other property movable or immovable in any other manner or his earnings ; provided that this clause shall not apply in the case of offensive industries, which must, under the provisions of the scheme, be removed ;

(*d*) if, in consequence of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses if any incidental to such change ; provided that this clause shall not apply in the case of offensive industries which must under the provisions of the scheme, be removed.

Appx. X.

(3) But the Collector and the Court shall not, in cases falling under clause (*b*) of section 33 take into consideration—

(*a*) the degree of urgency which has led to the acquisition or its compulsory character;

(*b*) any disinclination of the person interested to part with the land acquired;

(*c*) any damage sustained by him, which, if caused by a private person, would not render such person liable to a suit;

(*d*) any damage which is likely to be caused to the land acquired, after the date of publication of the notification under section 10, or section 12, as the case may be, or in consequence of the use to which it will be put;

(*e*) any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

(*f*) any outlay or improvements on the land acquired commenced, made or effected after the date of publication of the notifications referred to in clause (*d*) unless they are covered by a permission obtained under section 17;

(*g*) any outlay or improvements on, or disposal of, the land acquired which, having regard to the time at which they were made and other circumstances, appear to have been commenced, made or effected with intent to obtain increased compensation;

(*h*) the special suitability or adaptability, if any, of the land for any purpose, if that purpose is one to which it could be applied only in pursuance of statutory powers or for which there is no market apart from the special needs of a particular purchaser or the requirements of a Government department or any local or public authority.

(4) In cases falling under clause (*b*) of section 33, if the market value of any land or building is specially high by reason of the use thereof in a manner which could be restrained by any Court, or is contrary to law or public policy or is detrimental to the health of the inmates of the building or to the public health, the amount of the increased value due to such user shall be disregarded in determining the amount of compensation.

G.O. Ms. 1456, Rev., d. 6-6-38. B.P. 99, Press, d. 8-9-38.

APPENDIX XI.

The Indian Railways Act (Act No. IX of 1890), Chapter III.

Construction and Maintenance of Works.

* * * *

Authority of railway administrations to execute all necessary works.

7. (1) Subject to the provisions of this Act and, in the case of immovable property not belonging to the railway administration, to the provisions of any enactment for the time being in force for the acquisition of land for public purposes and for companies, and subject also, in the case of a railway company, to the provisions of any contract between the company and the Government, a railway administration may for the purpose of constructing a railway or the accommodation or other works connected therewith, and notwithstanding anything in any other enactment for the time being in force—

(*a*) make or construct in, upon, across, under or over any lands, or any streets, hills, valleys, roads, railways or tramways, or any rivers, canals, brooks, streams or other waters, or any drains, water-pipes, gas-pipes or telegraph lines, such temporary or permanent inclined planes, arches, tunnels, culverts, embankments, aqueducts, bridges, roads (lines of railway), ways, passages, conduits, drains, piers, cuttings and fences as the railway administration thinks proper;

(*b*) alter the course of any rivers, brooks, streams or water-courses for the purpose of constructing and maintaining tunnels, bridges, passages or other works over or under them, and divert or alter, as well temporarily as permanently, the course of any rivers, brooks, streams or water-courses, or any roads, streets or ways, or raise or sink the level thereof, in order the more conveniently to carry them over or under or by the side of the railway as the railway administration thinks proper;

(*c*) make drains or conduits into, through or under any lands adjoining the railway for the purpose of conveying water from or to the railway;

(*d*) erect and construct such houses, warehouses, offices and other buildings, and such yards, stations, wharves engines, machinery, apparatus and other works and conveniences as the railway administration thinks proper;

(*e*) alter, repair or discontinue such buildings, works and conveniences as aforesaid or any of them, and substitute others in their stead; and

(*f*) do all other acts necessary for making, maintaining, altering or repairing and using the railway.

(2) The exercise of the powers conferred on a railway administration by sub-section (1) shall be subject to the control of the Central Government.

Alteration of pipes, wires and drains.

8. A railway administration may, for the purpose of exercising the powers conferred upon it by this Act, alter the position of any pipe for the supply of gas, water or compressed air or the position of any electric wire or of any drain not being a main drain:

Provided that—

(*a*) when the railway administration desires to alter the position of any such pipe, wire or drain it shall give reasonable notice of its intention to do so, and of the time at which it will begin to do so, to the local authority or

Appx. XI. company having control over the pipe, wire or drain, or when the pipe, wire or drain is not under the control of a local authority or company, to the person under whose control the pipe, wire or drain is;

(b) a local authority, company or person receiving notice under proviso (a) may send a person to superintend the work, and the railway administration shall execute the work to the reasonable satisfaction of the person so sent and shall make arrangements for continuing during the execution of the work the supply of gas, water, compressed air or electricity or the maintenance of the drainage, as the case may be.

8-A. Nothing in the two last preceding sections shall authorize the doing of anything on or to any works, lands, or buildings vested in, or in the possession of, the Central Government without the consent of that Government.

Temporary entry upon land for repairing or preventing accident.

9. (1) The safety controlling authority may authorize any railway administration, in case of any slip or other accident happening or being apprehended to any cutting, embankment or other work under the control of the railway administration, to enter upon any lands adjoining its railway for the purpose of repairing or preventing the accident, and to do all such works as may be necessary for the purpose.

(2) In case of necessity the railway administration may enter upon the lands and do the works aforesaid without having obtained the previous sanction of the safety controlling authority, but in such a case shall within seventy-two hours after such entry, make a report to the safety controlling authority, specifying the nature of the accident or apprehended accident, and of the works necessary to be done, and the power conferred on the railway administration by this sub-section shall cease and determine if the safety controlling authority, after considering the report, considers that the exercise of the power is not necessary for the public safety.

Payment of compensation for damage caused by lawful exercise of powers under section 7, 8 or 9.

10. (1) A railway administration shall do as little damage as possible in the exercise of the powers conferred by any of the foregoing provisions of this chapter, and compensation shall be paid for any damage caused by the exercise thereof.

(2) A suit shall not lie to recover such compensation, but in case of dispute the amount thereof shall, on application to the Collector, be determined and paid in accordance so far as may be (with the provisions of sections 11 to 15, both inclusive, sections 18 to 34, both inclusive, and sections 53 and 54 of the Land Acquisition Act, 1894, and the provisions of sections 51 and 52 of that Act shall apply to the award of compensation).

Accommodation work.

11. (1) A railway administration shall make and maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway, namely :—

(a) such and so many convenient crossings, bridges, arches, culverts and passages, over, under or by the sides of, or leading to or from, the railway as may, in the opinion of the State Government, be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway is made, and

(b) all necessary arches, tunnels, culverts, drains, water-courses or other passages over or under or by the sides of the railway of such dimensions as will, in the opinion of the State Government, be sufficient at all times to convey water as freely from or to the lands lying near or affected by the railway as before the making of the railway or as nearly so as may be.

(2) Subject to the other provisions of this Act, the works specified in clauses (*a*) and (*b*) of sub-section (1) shall be made during or immediately after the laying out or formation of the railway over the lands traversed thereby and in such manner as to cause as little damage or inconvenience as possible to persons interested in the lands or affected by the works. **Appx. XI.**

(3) The foregoing provisions of this section are subject to the following provisos, namely :—

(*a*) A railway administration shall not be required to make any accommodation works in such a manner as would prevent or obstruct the working or using of the railway, or to make any accommodation works with respect to which the owners and occupiers of the lands have agreed to receive and have been paid compensation in consideration of their not requiring the works to be made.

(*b*) Save as hereinafter in this chapter provided, a railway administration shall not, except on the requisition of the State Government, be compelled to defray the cost of executing any further or additional accommodation works for the use of the owners or occupiers of the lands after the expiration of ten years from the date on which the railway passing through the lands was first opened for public traffic.

(*c*) Where a railway administration has provided suitable accommodation for the crossing of a road or stream and the road or stream is afterwards diverted by the act or neglect of the person having the control thereof, the administration shall not be compelled to provide other accommodation for the crossing of the road or stream.

(4) The State Government may appoint a time for the commencement of any work to be executed under sub-section (1), and if, for fourteen days next after that time, the railway administration fails to commence the work or, having commenced it, fails to proceed diligently to execute it in a sufficient manner, the State Government may execute it and recover from the railway administration the cost incurred by them in the execution thereof.

Power for owner, occupier or local authority to cause additional accommodation works to be made.

12. If an owner or occupier of any land affected by a railway considers the works made under the last foregoing section to be insufficient for the commodious use of the land, or if the State Government or a local authority desires to construct a public road or other work across, under or over a railway, he or it, as the case may be, may, at any time require the railway administration to make at his or its expense such further accommodation works as he or it thinks necessary and are agreed to by the railway administration or as, in case of difference of opinion, may be authorized by the Central Government.

G.O. Ms. 1456, Rev., d. 6-6-38. B.P. 99, Press, d. 8-9-38.
G.O. Ms. 2065, Rev., d. 17-5-57.

APPENDIX XII.

FORM 1.

Form of requisition.

Column 1. Name of village.
,, 2. Survey number and letter.
,, 3. Extent.
,, 4. Purpose for which required.
,, 5. Boundaries.
,, 6. The name and designation of the departmental officer deputed for the joint inspection.

Certificate.

1. *Demarcation.*—That the site was pegmarked on the ground and the demarcation approved by a responsible officer.

2. *Plan.*—That accurate measurements are furnished in the plan attached.

3. *Objections.*—That the objections of the owners have been duly considered and that the selection of another suitable site less open to objection by the owners was found impossible.

4. *Entry on land.* —That the land proposed for acquisition was entered upon with the consent of the owners on..........(here enter the date) and subject to the following conditiins :

(Here enter the conditions)

Note.—If the land was entered upon after the requisition was sent and before the award was passed, the fact should be immediately reported to the Land Acquisition Officer, with full particulars.

G.O. Ms. 2222, Rev. d 19–6–1958.
B.P. Misc. 1595, d. 16–12–1958.

5. *Funds.*—That provision has actually been made in the budget for the cost of acquisition.

FORM 2-A.

Form of notification to be issued under section 4 *of Act I of* 1894, *as amended by Act XXXVIII of* 1923.

Whereas it appears to the Government of Madras that the land specified in the schedule below and situated in the village, taluk, district, is needed for a public purpose, to wit, notice to that effect is hereby given to all whom it may concern in accordance with the provisions of section 4 (1) of the Land Acquisition Act I of 1894, as amended by the Land Acquisition Amendment Act XXXVIII of 1923, and the Governor of Madras hereby authorizes his staff and workmen to exercise the powers conferred by section 4 (2) of the Act. • Under section 3 (c) of same Act, the Governor of Madras appoints to perform the functions of a Collector under section 5-A of the Act.

Under sub-section (4) of section 17 of the Act, the Governor of Madras directs that, in view of the urgency of the case, the provisions of section 5-A of the Act shall not apply to this case.

Schedule.

District.
Taluk.
Village.
Description of land. Wet or dry, inam or poramboke, with survey or paimash No.
Name of the owner or occupier.
Boundaries of the land required to be taken up— North
East
South
West

Note.—The provision under the urgency clause should be deleted when not required.

G.O. Ms. 1308, Rev., d. 25-5-40. B.P. 63, Press, d. 28-6-40.

FORM 2-B.

Acquisition of land for the purpose of the Union Government.

Draft Notification under section 4 (1) of the Land Acquisition Act.

Whereas in exercise of the powers conferred by clause (1) of Article 258 of the Constitution, the President has, in Notification No. 20/1/55-Judl. (I), dated 14th May 1955, entrusted to the Government of Madras with their consent the functions of the Central Government under the Land Acquisition Act, 1894 (Central Act I of 1894) in relation to acquisition of land for the purposes of the Union in this State;

And whereas the land specified in the schedule below is needed for a public purpose, to wit, for notice to that effect is hereby given to all whom it may concern, in accordance with the provisions of section 4 (1) of the said Act;

Now therefore in exercise of the powers conferred by the aforesaid section, the Governor of Madras hereby specially authorizes the his staff and workmen to exercise the powers conferred by section 4 (2) of the Act. Under section 3 (*c*) of the same Act, the Governor of Madras appoints to perform the functions of a Collector under section 5-A of the Act. Under sub-section (4) of section 17 of the Act, the Governor of Madras directs that, in view of the urgency of the case, the provisions of section 5-A of the Act shall not apply to this case.

Schedule.

District.
Taluk.
Village.
Description of land. Wet or dry, inam or poramboke, with survey or paimash No.
Name of owner or occupier.
Boundaries of the land required to be taken up— North
East
South
West

Note.—The provision under the emergency clause should be deleted when not required.

G.O. 2065, Rev., d. 17-5-1957.

Appx. XII

FORM 3.

Notice under section 5-A of the Land Acquisition Act I of 1894, *as amended by the Land Acquisition Amendment Act XXXVIII of* 1923.

Notice is hereby given that the land specified in the appended schedule and situated in the village of in the taluk of in the district of is needed or is likely to be needed for a public purpose, to wit, for in accordance with the notification under section 4 (1) of the Land Acquisition Act I of 1894, as amended by the Land Acquisition (Amendment) Act XXXVIII of 1923, published by Government at page of Part I of the *Fort St. George Gazette*, dated

$\frac{\text{All persons interested in the land}}{\text{You}}$ are accordingly required to lodge before the within $\frac{30}{15}$ days from the date of $\frac{\text{publication of the above notification}}{\text{service of this notice}}$ a statement in writing of $\frac{\text{their}}{\text{your}}$ objections, if any, to the acquisition of the said land.

Any objection statement which is received after due date or which does not clearly explain the nature of $\frac{\text{the sender's}}{\text{your}}$ interest in the land is liable to be summarily rejected.

Objections received within the due date, if any, will be enquired into on at when $\frac{\text{the objectors}}{\text{you}}$ will be at liberty to appear in person or by pleader and to adduce any oral or documentary evidence in support of $\frac{\text{their}}{\text{your}}$ objections.

Schedule.

Survey number.	Description.	Extent required.	Reputed owner.

FORM 4.

Preliminary valuation statement.

Form of statement to be prepared by an officer of the Revenue Department (joint with an officer of the department requiring the land if a joint inspection with such officer is made) and to be submitted to and signed by the District Collector.

Department requiring land. (1)	Purpose for which land is required. (2)	Taluk. (3)	Village. (4)	Particulars of land required.					
				Whether ryotwari, inam or zamindari. (5)	Boundaries. (6)	Number of field. (7)	Description, dry or wet. (8)	Area. (9)	Assessment or rental. (10)
								ACS.	RS.

Name of owner or occupier. (11)	Selling price of similar land in the vicinity or other data on which the estimate of the value of the land is based. (12)	Estimated value of					Fifteen per cent addition allowable under section 23 (2) of Act 1 of 1894. (18)	Total compensation payable. (19)	Remarks. (20)
		Land. (13)	House. (14)	Wells. (15)	Trees. (16)	Total. (17)			
								RS.	

FORM 5-A.

Acquisition for purposes of the State.

Draft declaration under section 6 of the Land Acquisition Act.

The Government having been satisfied that the land specified in the schedule below has to be acquired for public purpose and it having already been decided that Rs. is to be paid out of public revenues towards compensation to be awarded for the land, the following declaration is issued under section 6 of the Land Acquisition Act (Act I of 1894).

Appx.XII.

Under section 6 of the Land Acquisition Act, the Government of Madras hereby declare that the land specified in the schedule below and measuring acres be the same a little more or less, is needed for a public purpose, to wit, for and under sections 3 and 7 of the same Act, the is appointed to perform the functions of a Collector under the Act and directed to take order for the acquisition of the said land. Under sub-section (1)/(2) of section 17 of the Act, the Governor of Madras further directs that the possession of the said land may be taken on the expiry of 15 days from the date of / * immediately after the publication of the notice mentioned in section 9 (1) of the Act. A plan of the land is kept in the office of the and may be inspected at any time during office hours.

* *Note.*—In case buildings are to be taken possession of under the proviso to section 17 (2) substitute "on the expiry of 48 hours after the date of" for "immediately after the".

Schedule.

District.	Taluk.	Village.	Description of land, wet or dry, inam or poramboke with survey or paimash number.	Name of owner/occupier.	Boundaries of the land required to be taken up. North.	East.	South.	West.	Extent to be taken up.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

Note.—The provision under the emergency clause should be deleted when not required.

G.O. Ms. 3858, Rev., d. 15-12-55. G.O. Ms. 2065, Rev., d. 17-5-57.

FORM 5-B.

Acquisition for the purposes of the Union.

Draft declaration under section 6 of the Land Acquisition Act.

Whereas in exercise of the powers conferred by clause (1) of Article 258 of the Constitution, the President has in Notification No. 20/1/55-Judicial (I), dated 14th May 1955 entrusted to the Government of Madras, with their consent the functions of the Central Government under the Land Acquisition Act of 1894 (Central Act I of 1894) in relation to acquisition of land for the purposes of the Union in this State, and whereas it has already been decided that the compensation should be paid from the public revenues.

Now therefore in exercise of the powers conferred by section 6 of the said Act, the Governor of Madras hereby declares that the land specified in the schedule below and measuring acres be the same a little more or less, is needed for a puplic purpose, to wit, for and under sections 3 and 7 of the same Act, is appointed

to perform the functions of a Collector under the Act and directed to take order for the acquisition of the said land. Under sub-section (1)/(2) of section 17 of the Act, the Governor of Madras further directs that the possession of the said land may be taken on the expiry of 15 days from the date of / * immediately after the publication of the notice mentioned in section 9 (1) of the Act. A plan of the land is kept in the office of the and may be inspected at any time during office hours. Appx XI

Note (1).—The provision under the urgency clause, should be deleted, when not required.

* (2) In case buildings are to be taken possession of under the proviso to section 17 (2) substitute " on the expiry of 48 hours after the date of " for " immediately after the ".

Schedule.

District.	Taluk.	Village.	Description of land, wet or dry, inam or poramboke with survey or paimash number.	Name of owner or occupier.	Boundaries of the land required to be taken up.				Extent to be taken up.
					North.	East.	South.	West.	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

G.O. Ms. 3858, Rev., d. 15-12-55. G.O. Ms. 2065, Rev., d. 17-5-57.

FORM 5-C.

Preamble to declaration under section 6 of the Land Acquisition Act in respect of acquisition of lands for a company or a local authority.

The Government having been satisfied that the lands specified in the schedule below have to be acquired for a public purpose, to wit, and it having already been decided that Rs. is to be paid by * out of the fund controlled or managed by * towards compensation to be awarded for the land, the following declaration is issued under section 6 of the Land Acquisition Act (Act I of 1894).

* *Note.*—Here specify the name of the company or the local authority as the case may be.

G.O. Press 789, Rev., d. 19-2-57. G.O. Ms. 2065, Rev., d. 17-5-57.

Appx. XII.

FORM 6.

Notice under sections 9 (1) *and* 10 *of the Land Acquisition Act I of* 1894 (*India*).

Notice is hereby given that State Government propose to acquire the lands mentioned in the list below, which are required for public purpose under Act I of 1894 (India). All persons interested in the lands are requested to appear in person or by authorized agent on

before

and to state put in a statement in writing signed by themselves or their agents showing the nature of their interest in the lands, the amount of compensation for such interests with particulars thereof and their objections (if any) to the measurements made under section 8 of the Act, and to put in a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part of it as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise the nature of such interest and the rents and profits (if any) received or receivable on account of it for three years next preceding the date of the statement.

Particulars of the lands.

Taluk. (1)	Village. (2)	Name of owner or registered holder or other person interested in the land. (3)	Inam, ayan or zamindari. (4)	Wet or dry. (5)	Field No. (6)	Extent. (7)	Assessment. (8)	Remarks. (9)
						ACS.	RS. nP.	

Note.—If the persons interested refuse to make a claim to compensation or omit, without sufficient reasons, to make such claim, the amount to be awarded by the court, in the event of a reference being made to it on application made by them, shall in no case exceed the amount awarded by the Collector under section 11 of the Act.

G.O. Ms. 1745 Rev. d. 9—6—59.

G.O. Ms. 1763, Rev., d. 28-8-37. B.P. 36, Press, d. 20-4-38.
G.O. Ms. 420, Rev., d. 7-3-33. B.P. 22, d. 21-3-33.
G.O. Rt. 161, Rev., d. 15-3-57.

FORM 7.

Notice under sections 9 (3) and 10 of the Land Acquisition Act I of 1894 (India).

Collector of District.

Notice is hereby given that State Government propose to acquire the lands mentioned in the list below, which are required for a public purpose under Act I of 1894 (India). You are required to appear in person or by authorized agent on before at and to

state
put in statement in writing signed by you or your authorized agent showing the nature of your interest [in the lands, the amount of compensation for such interest with particulars thereof] and your objections (if any) to the measurements made under section 8 of the Act and to put in a statement containing so far as may be practicable, the name of every other person possessing any interest in the land or any part of it as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise the nature of such interest and the rents and profits (if any) received or receivable on account of it for three years next preceding the date of the statement.

Particulars of the lands.

Taluk. (1)	Village. (2)	Name of owner, registered holder or other person interested in the land. (3)	Inam, ayan or zamindari. (4)	Wet or dry. (5)	Field number. (6)	Extent. (7)	Assessment. (8)	Remarks. (9)
						ACS. CTS.	RS. nP.	

Note.—If you refuse to make a claim to compensation or omit without sufficient reason to make such claim, the amount to be awarded by the court in the event of a reference being made to it on your application, shall in no case, exceed the amount awarded by the Collector under section 11 of the Act.

G.O. Ms. 420, Rev., d. 7-3-33. B.P. 22, d. 21-3-33.
G.O. Ms. 1763, Rev., d. 28-8-37. B.P. 36, Press, d. 20-4-38.
G.O. Rt. 161, Rev., d. 15-3-57.
G.O. Ms. 2464, Rev., d. 26-8-53. B.P. Press 28, d. 22-12-54

Appx. XII.

FORM 8.

Award.

No. dated
Made by

under section 11 of the Land Acquisition Act I of 1894.

Whereas an extent of land measuring acres and situated in the village of in the taluk of in the registration sub-district of in the district of and registered in the name of, or occupied by, the persons specified below, has been declared by State Government at page of the *Fort St. George Gazette*, Part , dated , to be needed for the undersigned after full enquiry into the case and on due consideration of the various circumstances connected with the acquisition as herebefore setforth, makes the following award under his hand :—

(i) The true area of the land is acres.

(ii) The compensation allowed for the land is Rs. as shown below :—

	RS.	NP.
(*a*) (1) The market value of the land subject to full assessment, peshkash or ground-rent as the case may be, and in the case of house-site held free, its market value as such, exclusive in all cases of trees, buildings and standing crops, at Rs. —vide Board's Standing Order No. 90, paragraph 14 (i), Note (1).		
(2) In the case of inams other than those mentioned in paragraph 14 (ii) of Board's Standing Order No. 90, compensation for loss of privilege calculated at 20 times the assignment of Government revenue to which the inamdar is entitled—vide Board's Standing Order No. 90, paragraph 14 (i), Note (2).		
(3) In the case of inams coming under paragraph 14 (ii) of Board's Standing Order No. 90, the amount of net assessment guaranteed to the inamdar at the time of the inam settlement on the extent acquired, which represents the melvaram interest is Rupees		
Note.—The value of the compensation for the Kudivaram interest is to be entered against item (ii) (*a*) (1) above.		
(*b*) Valuation on account of buildings, wells, crops, trees, etc.		
(*c*) 15 per cent on items (*a*) (1) and (2) and (*b*) ..		
(*d*) Other damages, if any (to be specified)		
Rupees. Total ..		

(iii) The person or persons to whom the compensation is due—

Serial number.	Name.	RS. NP.

Survey or paimash number.	Extent.	Name of registered holder or occupier.	Boundaries of the land.			
			North.	East.	South.	West.

The undersigned certifies that—

(*a*) Notices have been promulgated or served in accordance with section 9 of the Land Acquisition Act and that evidence of such promulgation or service forms part of the record.

(*b*) There is before him a plotted plan of the land or lands to be acquired.

Land Acquisition Officer.

G.O. Rt. 161, Rev., d. 15-3-1957.

FORM 9.

Notice of award under section 12 (2) *of Act I of* 1894.

The following award has been passed by the undersigned in the matter of the acquisition of the lands noted below and situated in
village, taluk :—

Survey number and subdivision.	Extent.	Amount awarded.	Persons to whom award is made.

is/are hereby informed that he/they should appear either in person or by an authorized agent before the undersigned within days after the issue of this notice, and receive the amount specified above, failing which, the said sum of money will be kept in Revenue deposit and will bear no interest.

STATION,
Date 19 .

Land Acquisition Officer.

Note.—The paragraph below the statement in this notice should be deleted when the notice is served on those who are not awardees.

If the *persons interested* are present, the contents of the award should be made known to them and the compensation amount *tendered to the awardees* immediately. The notice of the award under Section 12 (2) of the Act *to the persons interested who are absent* should be served without delay as any objections can be filed within six weeks of the service of the notice or within six months from the date of the award whichever period shall first expire.

G.O. Mis. 3094, Rev., d. 7-11-53.

Form 10.

Notice under Act I of 1894.

Appx.XII.

To

Take notice that the marginally-noted property has been acquired by Government under the Land Acquisition Act I of 1894 for

as per notification in the *Fort St. George Gazette*, dated page , Part , and that you should vacate and deliver possession of it before the evening of the to the who has received necessary instructions in the matter. If you fail to do so, the will be addressed to enforce the surrender of the property to this department under section 47 of the Land Acquisition Act.

STATION,
Date 19 .

Land Acquisition Officer.

Form 11.

Form of letter from the Land Acquisition Officer to the department concerned to receive possession of the land.

No.

OFFICE,
————19 .

From

Land Acquisition Officer,

To

Reference—Acquisition of land for

SIR,

With reference to the correspondence ending with letter No. , I am to inform you that acres cents of land have been acquired on your behalf.

Please arrange to depute an officer of your department to take possession of the land from the Revenue Inspector of at on 19

Yours faithfully,

Land Acquisition Officer.

Form 12.

Statement of land required to be temporarily occupied for (note the purpose here). Appx, XII.

District.	Taluk.	Village.	Description of land, inam or Government, wet or dry, with survey or paimash number.	Name of owner or occupier.	Boundaries of the land required to be occupied.			
					North.	East.	South.	West.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Extent to be occupied.	The probable compensation payable for the occupation of the land.	The authority sanctioning the estimate for the work for which the land is required, i.e., whether sanctioned in a Government Order or by the Superintending Engineer in his Circle Register number.	The amount of the sanctioned estimate.	The total amount provided for land in the sanctioned estimate.
(10)	(11)	(12)	(13)	(14)

Appx.XII.

FORM 13.

Return of lands acquired under the Land Acquisition Act (to be forwarded to the Registration Department).

(1)	(2)	(3) Name and description of property acquired.									
Name and designation of the officer who made the award.	Date of award.	Names of the sub-district and village.	Name of the land, if any.	Survey number or sub-number or letter or paimash number.	Boundaries. North.	Boundaries. East.	Boundaries. South.	Boundaries. West.	Extent.	Classification of land as Government or inam or zamindari and as wet, dry, or garden.	Houses, buildings, trees or hills, if any, situated on the land and their description, name of the street and door number being given in the case of house property.
(1)	(2)	(3-*a*)	(3-*b*)	(3-*c*)	(3-*d*)	(3-*e*)	(3-*f*)	(3-*g*)	(3-*h*)	(3-*i*)	(3-*j*)

(4) Nature of the interest in immovable property transferred, the purpose, etc.				(5) Name and description of person to whom the property belonged.						(6)
Nature of the interest in immovable property transferred.	The purpose for which the transfer was made.	The nature of compensation awarded.	Amount or value of compensation awarded.	Name (including rank and title).	Father's name in the case of males, and the husband's name in the case of females ; when a person is usually described as the son of his mother, then his mother's name.	Residence.	Profession.	Caste.	Name and description of the person to whom the property has been transferred.	Remarks.
(4-*a*)	(4-*b*)	(4-*c*)	(4-*d*)	(5-*a*)	(5-*b*)	(5-*c*)	(5-*d*)	(5-*e*)	(5-*f*)	(6)

Note.—A copy of this return should be sent to every sub-registrar in whose sub-district any portion of the property referred to in the award is situated.

FORM 14.

Statement of compensation in other forms than money for land taken up for public purposes

Taluk and village.	Serial number.	Classification of land whether ryotwari, inam or zamindari; if inam whether personal or for religious, State or charitable service, and whether enfranchised or unenfranchised.	Entire estate, inam or zamindari.			Particulars of land taken up.				Nature of compensation.										When the fixed annual payment takes the form of the reduction of peshkash jodi or quit-rent, total reduction made [columns 9 and 19].	Future peshkash or quit-rent, viz., the amount chargeable after making the deduction in column (9) or column (21) as the case may be.	Purpose for which the land was taken up.	Remarks.
										A. Fresh grant of land.							B. Fixed annual payment.						
			Extent in acres.	Assessment.	Jodi, quit-rent or peshkash.	Extent in acres.	Assessment.	If inam or zamindari, proportionate, jodi, quit-rent or peshkash.	Value of the occupancy right [i.e., of the land subject to full assessment].	Village.	Description.	Extent in acres.	Assessment.	Tenure on which the grant is made (ryotwari or inam.)	Jodi or quit-rent (if any) charged when grant is made on inam tenure.	Value of the occupancy right in the fresh grant [i.e., subject to full assessment].	Nature of the fixed payment.	Amount of the fixed payment.	How the amount in column 19 has been fixed.				
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)	(23)	(24)
			ACS.	RS.	RS.	ACS.	RS.	RS.	RS.			ACS.	RS.		RS.	RS.		RS.		RS.	RS.		

NOTE (1).—When land is taken up for a local board or municipality and compensation is granted by an exchange of Government land or an abatement of land revenues or when inam or zamindari land is taken up for a local body and proportionate reduction of jodi, quit-rent or peshkash is allowed to the proprietor in respect thereof it should be noted in the remarks column whether the loss to Government of the value of the land or of revenue has been or will be made good by the local body concerned or whether the local body will be exempted from payment under the rules on the subject of placing State land at its disposal.

(2).—Columns (10) and (17) may be filled up by quoting the net annual income with the words "per annum" added to the amount instead of the capitalized value of the occupancy right.

As the value of the occupancy right in the land to be granted in exchange should exceed the value of the occupancy right in land acquired by 15 per cent allowed for compulsory acquisition, the amount entered in column (17) should be equal to that shown in column (10) plus 15 per cent

(3).—Where the assessment has not been fixed, an approximate estimate thereof should be entered in columns 5 and 14.

(4).—(Column 4). The survey extent of the inam should be entered in this column as it represents the correct extent in the enjoyment of the inamdar.

(5). (Column 5). The amount of assessment entered in the inam register relating to the inam should be entered in this column.

(6).—The rule in Standing Order No. 62 (iii) or 62 (iv) as the case may be should be followed when there is an excess area in the inam acquired.

B.P. 211, d. 9-9-99. B.P. 65, d. 24-3-02. B.P. 113, d. 6-5-10. B.P. 119, d. 12-4-15.
G.O. Ms. 998, d. 17-5-34. B.P. 73, d. 8-6-34.

Appx. XII.

Form 15.

Return of lands granted in exchange.

(1) Name and description of property granted in exchange.										(2)	(3)	(4) Name and description of person to whom the property was granted.					
Names of the sub-district and village.	Name of the land, if any.	Survey number or sub-number or letter or paimash number.	Boundaries.				Extent.	Classification of land (Government, inam or zamindari; wet, dry or garden).	Houses, buildings, trees or hills, if any situated on the land and their description. Name of street and door number in the case of house property.	Nature of interest in immovable property granted.	Name and description of the person to whom the property granted belonged.	Name (including rank and title).	Father's name in the case of males and husband's name in the case of females. Where a person is usually described as the son of his mother, then his mother's name.	Residence.	Profession.	Caste.	Remarks.
			North.	East.	South.	West.											
(1-a)	(1-b)	(1-c)	(1-d)	(1-e)	(1-f)	(1-g)	(1 h)	(1-i)	(1-j)	2	3	(4-a)	(4-b)	(4-c)	(4-d)	(4-e)	(5)
							AC.										

Form 16.

Appx. XII

Schedule under section 19 (2) of the Land Acquisition Act, giving particulars of statements made in writing.

From whom.	Date of statement.	Date of receipt.	Abstract of statement.	Remarks.

Schedule under section 19 (2) of the Land Acquisition Act, giving particulars of notices served.

Description of notice.	Date.	Name of person.	When served.	How served.
Notice under sections 9 (3) and 10 of the Act. Notice under section 12 (2) of the Act.				

Date 19 . *Land Acquisition Officer.*

Form 17.

I

Title-deed to be granted when the land relinquished was held on inam or zamindari tenure at the time of the acquisition and is restored under clause (iv), paragraph 32, Standing Order No. 90 to the original proprietor at cost price subject to such occupancy right, if any, as existed in respect of the land before its acquisition.

Whereas has purchased the land, specified below to be held on inam (or zamindari) tenure subject to a quit-rent (or peshkash) of Rs. and has paid into the treasury at the sum of Rs. , being the purchase-money of the said land, I hereby, acting on behalf of the Governor of Madras, grant the said land to the said and his representatives and assigns to be held by him and them subject to the quit-rent (or peshkash) and to all the conditions and incidents of the title-deed (or permanent sanad) issued in respect of the land before the acquisition of the same for public purposes and subject also to such occupancy rights, if any, as existed in respect of the said land before its acquisition as aforesaid, which occupancy rights are hereby revived :—

Specification of the land.

District.	Taluk and village.	Name of estate or number of title-deed, if inam.	Number and name of field, if any.	Extent.	Assessment.	Proportionate quit-rent or peshkash.	Date of sale.	Date of payment.
				ACS.	RS. nP.	RS. nP.		

G.O. Ms. 1763, Rev., d. 28-8-37. B.P. 36, Press, d. 20-4-38.
G.O. Ms. 1005, Rev., d. 3-5-41. B.P. Ms. 3055, d. 15-11-41.

Appx XII.

II

Title-deed to be granted to the purchaser of the occupancy right in land of the description contemplated in Form I above when such right is sold separately.

WHEREAS has purchased the occupancy right in the land specified below to be held subject to the rights in the said land of the inamdar (or zamindar) of , and has paid into the treasury at the sum of Rs. , being the purchase-money of the occupancy right, I hereby, acting on behalf of the Governor of Madras, grant the said occupancy right to the said and his representatives and assigns to be held by him and them subject to the same conditions and incidents of occupancy right as were in force before the acquisition of the said land for public purposes and which conditions and incidents are hereby revived subject to the following provisos :—

(i) that the Government reserve to themselves the right to all sandal wood trees and their branches and roots which exist at the time of grant (which are described in the schedule attached) as well as those which may grow subsequently on the lands granted and the Government shall be at liberty to cut or dig out any such trees or their roots and branches and remove them from the land in question and dispose of them at their pleasure. The grantee shall not be entitled to cut or remove them or cause them to be cut or removed without the permission of the Collector of the district ;

(ii) that the grantee shall take all reasonable measures to the satisfaction of the Collector of the district for the protection of the sandal wood trees from theft or damage and for the careful protection of the immature trees growing on the land ;

(iii) that the grantee shall take steps to see that the marks made by the officers of the Government on the sandalwood trees are preserved and are not tampered with ; and

(iv) that in the event of the infringement of, or failure to observe, any of the conditions (i), (ii) or (iii) mentioned above, the grantee shall pay to the Government such compensation as is determined by the Collector of the district for any loss or damage caused by such infringement or failure on his part. The Government shall also be at liberty to cancel the grant and re-enter on the land and the whole land shall thereupon vest absolutely with the Government. In that case the grantee shall not be entitled to any compensation whatever.

Specification of the land.

District.	Taluk.	Estate or village and number of title deed, if inam.	Number and name of field, if any.	Extent.	Assessment.	Date of sale.	Date of payment.
				ACS.	RS. NP.		

Note.—When lands are sold in the districts noted below the expression " subject to the following provisos " and the provisos (i) to (iv) printed thereunder should be scored out :—

Chingleput-Madras.
Tanjore.

G.O. Ms. 2745, Rev., d. 2-12-41.
B.P. Press 138, d. 13-12-41.
B.P. Mis. 86, d. 10-1-42.

G.O. Rt. 161, Rev., d. 15-3-57.
G.O. Ms. 602, Rev., d. 8-3-35.
B.P. 34, d. 8-4-35.

FORM 18.

Application for the disposal under paragraph 32 of Boards' Standing Order No. 90 of agricultural or pastoral land originally acquired for public purposes and subsequently relinquished.

District. (1)	Taluk. (2)	Village. (3)	Survey number. (4)	Description of land at the date of acquisition, (i.e.) whether ryotwari, inam or zamindari and whether wet, dry or garden. (5)	Extent. (6)	Assessment, peshkash or quit-rent. (7)
					ACS.	RS. NP.

Compensation paid by State Government inclusive of the 15 per cent allowance for compulsory acquisition. (8)	Present market value of the land. (9)	Whether the land has deteriorated in its fitness for agricultural purposes while in the occupation of Government. (10)	Divisional Officers' recommendation—whether the land should be sold to the owner of the adjoining land or sold by public auction. (11)

N.B.—This form does not apply to land used as building site or to land situated within half a mile of any railway station (vide G.O. No. 5005, dated 8th December 1896, communicated with B.P. No. 166, dated 5th July 1898, and B.P. No. 279, dated 13th November 1899).

Note.—In column (11) it should be explained why the land has not been reassigned to the original owner or his heirs.

G.O. Rt. 161, Rev., d. 15-3-57.

Appx. XII.

FORM 19.

Special register of papers relating to acquisition of land for public purposes.

Serial number.	Date of requisition.	Department from which the requisition has been received.	Purpose of acquisition.	Date of submission of the notification under section 4 (1).	Date of the publication of the notification in the official gazette.	Number and date of the letter submitting the draft declaration under section 6.	Date of the publication in the official gazette of the declaration under section 6.	Date of the award.	Serial number and date of the award statement.	Date of taking possession.	Date of completion of proceedings and closing of the file.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)

Note.—*Column* (7).—The letter should be given a R. Dis. number.
Column (8).—The Government Order ordering the publication of the declaration should be given a separate current number which should be entered within brackets in this column.

FORM 20.

(a) *Statement of pending land acquisition cases.*

Name of district.

Number of cases pending at the beginning of the half-year.

Number of cases received during the half-year.

Total.

Number of cases disposed of during the half-year.

Balance at the end of the half-year—(Here enter the yearwar details of the balance also).

(b) *Details in respect of cases pending over one year.*

Serial number. (1)	Date of application. (2)	Department applying for acquisition. (3)	Subject in brief. (4)	Date of publication of notification under section 4 (1). (5)	Date of publication of declaration under section 6. (6)	Date of award. (7)	Remarks on causes of abnormal delay at any stage from the date of application [if remarks are lengthy space under columns (5)—(7) should also be used]. (8)

B.P. Press 10, d. 25-5-44.

FORM 21.

Land Acquisition Check-Memorandum.

Questions.	Answers.
1. Number and name of the village and name of the taluk.	
2. Whether the village is ryotwari, inam or zamindari.	
3. Whether the village is surveyed or not.	
4. Date of application for the acquisition of the land.	
5. The purpose for which land is required.	
6. Date of publication of the notification under section 4 of the Land Acquisition Act.	

Appx. XII.

Questions.	Answers.
7. Date of publication of the notification under section 5 or 17 (*b*) (ii) of the Survey and Boundaries Act. *Note.*—The above question applies only to non-Government villages.	
8. Date of publication of the notification under clause 1 to section 4 of the Survey and Boundaries Act.	
9. Date of publication of the notification under section 6 of the Survey and Boundaries Act. Is the Village Officer's certificate of publication in the file ?	
10. Date of preparation of the plotted sketch by the Revenue Inspector, Surveyor or Draughtsman.	
11. Does the plotted sketch or demarcation sketch in the case of acquisition for large projects bear the Revenue Inspector's or Surveyor's certificate of demarcation ? What is the date of it ?	
12. Date of counter-signature by the Circle Officer or District Surveyor or the Special Land Acquisition Officer of the sketch in token of technical scrutiny. *Note.*—Even sketches of entire old fields or registered subdivisions require technical scrutiny. They should also bear the certificate of demarcation referred to in Question 11 (eleven).	
13. Date of publication of the declaration under section 6 of the Land Acquisition Act, and the area notified for acquisition—(*a*) ryotwari, (*b*) inam, (*c*) other lands with description.	
14. Date of publication of the notice mentioned in section 9 (1) of the Land Acquisition Act.—Is the village officer's certificate of publication in the file ? Date of service of the notices under section 9 (3) of the Land Acquisition Act.—Are the acknowledgments in respect of them in the file ?	
15. Is the certificate required under section 9 (1) or 10 (1) of the Survey and Boundaries Act available in the file ?	
16. Date of service of the notices under section 9 (2) or 10 (2) of the Survey and Boundaries Act.—Are the acknowledgments in respect of them in the file ?	

Questions.	Answers.
17. Date of the award enquiry under section 11 of the Land Acquisition Act.	
18. Does the land acquisition file contain extracts from the village and taluk A-registers of the village ?	
19. Area withdrawn from acquisition, if any, and date of publication of the notification under section 48 (1) of the Land Acquisition Act.	
20. Date of passing the award and the areas acquired.	
21. Is the award drawn up in the form standardized in B.P. No. 33, dated 6th June 1927, and is a copy of the proceedings discussing the grounds of valuation in the file ?	
22. Date of despatch of the Code Form A (T & A 54) to the Audit office.	
23. Date of despatch of the Code Form AA (T & A 55) to the Audit office.	
24. Have notices under section 12 (2) of the Land Acquisition Act been issued promptly wherever necessary and are their acknowledgments in the file ?	
25. (*a*) Have reference to Court been made where necessary and the amounts covered by such reference deposited in Court and acknowledged by it ?	
(*b*) Has the compensation been paid by the Land Acquisition Officer himself fully ? If not, what action has been taken in respect of the balance ?	
26. Date of handing over possession of the land to the department requiring it.	
27. Date of submission of proposals to the Collector for the grant of beriz deduction or for the reduction of quit-rent or peshkash and the date of receipt of the Collector's orders thereon.	
28. Date of despatch of Form No. 13 printed in Appendix XII to B.S.O. No. 90 to the Registration department by or through the Revenue Divisional Officer.	
29. When the Land Acquisition Officer is not himself the Revenue Divisional Officer, date of despatch to	

Appx. XII.

Questions.	Answers.
the Revenue Divisional Officer of the duplicate copies of the revised field maps, the subdivision statements and the statements of changes due to land acquisition and the demarcation sketch.	
30. Has the acquisition been entered in Taluk Register No. 7 ? What is the number of the item in the register ? *Note.*—This does not apply to cases of acquisition in which no change in the classification of the land acquired is involved. B.P. 160, Press, d. 28-11-35.	
31. If the acquisition involved new field or subdivision, has the case been entered in Taluk-8-A Register ? If so, what is the number of the item in the register ?	
32. Date of (*a*) the insertion of the new field maps or the plotting of the new subdivisions in the village copy of the field measurement book (or the record of measurement and revenue map in a surveyed town) and (*b*) entry in permanent A Register.	
33. Date of (*a*) plotting of the new fields or subdivisions in the Town Surveyor's copy of the record of measurement and revenue map and the Chairman's copy of revenue map and (*b*) entry in Town Survey Register in a surveyed town.	
34. Were the survey records sent to the Circle Officer or District Surveyor after the incorporation of changes in the village accounts for final scrutiny and for correction of the maintained set of village maps where necessary ? What is the number of the item in the Circle Officer's or district surveyor's subdivision register ?	
35. Date of (*a*) the insertion of the new field maps or the plotting of the new subdivisions in the taluk copy of field measurement book (or the record of measurement and revenue map in a surveyed town) and (*b*) entry in permanent A Register.	
36. Date of the publication of the notification under section 13 of the Survey and Boundaries Act in the District Gazette and in the village.	

PRICE : 3 *Paise.*

LIST OF CORRECTIONS TO THE LAND ACQUISITION MANUAL.

Page 283.—*Agreement No. I—Form* 22 *of Appendix XII under Section* 41 *of the Land Acquisition Act.*

—*Add* the following as penultimate sentence :—

" In the event of the cost of the special land acquisition staff being revised for any reason, the acquiring body shall be given intimation of the revision within two years of such revision, and that the revised amount can be recovered as if it were an arrear of land revenue, in case of default."

(G. O. Ms. No. 515, Revenue, dated 7th March 1967.)

37. Date on which the land acquisition file was closed and its disposal number.

38. Date on which copy of the check-memorandum was submitted to the Collector.

G.O. Ms. 2813, Rev., d. 31-10-38.	B.P. Press, 25, d. 20-3-39.
G.O. R. 26, Rev., d. 17-1-44.	B.P. Press, 4, d. 3-2-44.
G.O. Ms. 1727, Rev., dated 24-8-37.	B.P. d. 14-9-37.
G.O. Ms. 135, Rev., d. 20-1-31.	B.P. Mis. 238, d. 24-1-31.
G.O. Ms. 542, Rev., d. 17-3-34.	B.P. 58, d. 30-4-34.
G.O. 2057, Rev., d. 1-7-55.	B.P. 160, Press, d. 28-11-35.
G.O. Ms. 664, Rev., d. 29-4-45.	B.P. Press 22, d. 18-7-45.
G.O. Ms. 2065, Rev., d. 17-5-57.	B.P. 6, Press, d. 7-2-47.
G.O. 1788, Press, d. 27-4-57.	B.P. Mis. 1507, d. 29-11-58.

FORM 22.

Draft form of agreement under section 41 of the Land Acquisition Act.

Articles of agreement made the day of 19 between the a company registered under and having its office at (hereinafter called " the Company ") of the one part and the Governor of Madras (hereinafter called the " Governor ") of the other part.

WHEREAS, upon the application of the Company, the Government of Madras have agreed to acquire on behalf of the company under the provisions of the Land Acquisition Act, 1894 (I of 1894), the pieces or parcels of land described and delineated in the schedule hereto annexed and situated in village taluk district, it having been shown to the satisfaction of the said Government that the proposed acquisition is needed for the construction of a work likely to prove useful to the public, namely, and whereas the said Government have called upon the Company under the provisions of section 41 of the said Act to enter into the agreement with the Governor hereinafter contained. Now these presents witness and it is hereby agreed and declared as follows :—

The Company shall pay to the Government of Madras before the said land is transferred to the company the cost of the land as settled by the Collector, or if reference is made to the Court, by the final Court of appeal, and all costs of acquisition inclusive of all payments and allowances in respect thereof payable under the said Act and all Court costs and Pleader's fees, etc., incurred by the said Government in defending the reference, if any, made to the Court as aforesaid and on appeal or appeals filed in connection therewith and all costs, pleader's fees, etc., payable or paid by the said Government to the claimant in the said matters. The said Government shall not be bound to give possession of the land until all the said moneys have been paid and may withdraw from the acquisition, and in case of withdrawal the company shall be liable to indemnify the said Government against all expenses incurred and damage sustained as the result of anything done by them in the matter of acquisition till the date of withdrawal.

2. Upon such payment by the Company the Governor shall execute and do all such acts, deeds, matters and things as may be necessary or proper for effectively vesting the said land in the Company and giving the Company an absolute title thereto subject to the payment of an assessment or ground-rent as hereinafter provided.

Appx. XIII.

3. The terms upon which the said land shall be held by the Company are—

(a) that the land shall be used for the

(b) that the Company shall pay to the Government of Madras annually the appropriate assessment or ground-rent, as the case may be, on the land which shall be liable to revision at any general revision of the land revenue settlement.

* * * *

(Here enter the special clauses to be provided for in each case.)

that in the event of the Company being wound up or in the event of failure on the part of the Company to carry out the terms of the agreement, that is to say

the land shall be liable to be resumed and taken back by the said Government on repayment to the Company of the amount of the award as finally settled less the 15 per cent awarded for compulsory acquisition or the estimated market value of the land at the time of resumption whichever shall be less and if there are any buildings on the land the said Government may at their option either purchase the buildings on payment of their estimated value at the time or direct the Company to remove the buildings at its own cost within such time as may be allowed by the said Government.

that in the event of the voluntary relinquishment of the land by the Company as not required for the purpose for which it was acquired, the Government may resume the land, if it is required for a public purpose or if they consider that it should be returned to the original owner. If the Government decide not to exercise this power and inform the company accordingly, the latter may dispose of the land in any manner it likes. In the event of the resumption of the land under this condition, the Compensation payable to the Company shall be the value of the land at the time of acquisition (less the 15 per cent awarded for compulsory acquisition) or its value at the time of resumption whichever may be less together with the value of the buildings and other improvements at the time of resumption. If there are buildings on the land which the Government do not require, the Company shall remove them at its cost.

(c) that the Government shall have the right to resume the land, if the Company does not use the land for the purpose for which it was acquired within a period of one year or such further extended period as may be permitted by the Government to be reckoned from the date on which the Company was placed in possession of the land.

(G.O. 2904, Rev., d. 6-10-59. B.P. 5, Press, d. 16-3-1960.)

4. All the costs and expenses of, and incidental to, the preparation and execution of this agreement (including stamp duty and costs of registration, if registration be required by the said Government) shall be paid by the Company.

In witness whereof the seal of the Company hath hereunto been affixed and the indenture executed for and on behalf of the Company by

and Sri Secretary to the Government of Madras Department, by order and direction of, and acting for and on behalf of the Governor of Madras hath hereunto set his hand the day and year first above written.

Schedule above referred to

Registration district.

Sub-district.

Name of village or town.

Description of land, wet or dry, with Survey Nos.
Boundaries and area, etc.

Signature.

Witnesses—
1.
2.

Signed, sealed and delivered by the abovenamed in the presence of
1.
2.

G.O. Mis. 3150, Rev., d. 19-12-1940. B.P. 8, Press, d. 31-1-1941.
G.O. Ms. 2065, Rev., d. 17-5-1957.

Form No. 23.

Form of agreement relating to house-sites.

This agreement entered into this day of one thousand nine hundred and between the Governor of Madras the one part and son of residing at of the other part.

Whereas it has been decided that the plot or parcel of land more particularly described in the schedule hereto should be acquired by the Governor by initiating proceeding under the Land Acquisition Act. And whereas the said has applied to the Collector of for and on behalf of the Governor of Madras for a plot of land measuring acres cents in extent being a portion of the land above mentioned. And whereas the said has paid into the treasury to the credit of the Government of Madras the sum of Rs. as deposit or initial payment towards the cost of such plot or parcel of land. Now This Indenture Witnesseth.

(1) The said agree that the marking out and division of the said plot of land into house-sites and the distribution of the same by the Collector of or some person deputed on his behalf shall be final and to accept the site that may be allotted to him by the said Collector of or such other person deputed on his behalf without any question or dispute whatsoever.

(2) The said agrees to pay to the Government of Madras the proportionate cost incurred by the Government in acquiring the plot of land that may be allotted as aforesaid in annual payments of Rs. each exclusive of the deposit of Rs. now paid by him.

(3) The said agrees that if the amount of compensation payable for the acquisition of the land is subsequently increased by an award of Court on a reference under the Land Acquisition Act or an appeal therefrom the instalments payable by him shall be increased at the discretion of the

APPX. XII.

Government of Madras in amount or in number so as to cover the amount of additional compensation and all expenses incurred by the said Government in the conduct of the proceedings in Courts and the said shall pay to the said Government such enhanced or additional instalments accordingly.

(4) The said agrees to pay to the Government of Madras on the date fixed for the payment of each instalment together with the interest accrued up to that date on the amount of the purchase money then remaining unpaid at the rate prevailing for loans granted under the Agriculturists' Loan Act, 1889, as amended, on the date the amount was paid in the first instance by the said Government on behalf of the said .

(5) The said hereby agrees to accept from the Government of Madras a grant of the said piece or parcel of land in the form appended to and containing the conditions prescribed in G.O. No. 52, dated 7th January 1928, or any other Government Order published in substitution therefor or modification thereof.

(6) The said hereby agrees that in the event of a breach or non-performance of the covenants and conditions herein contained or in the event of the acquisition proceedings being withdrawn at his instance the said Government of Madras may at their option and without prejudice to their other rights and remedies forfeit the whole or part of the deposit hereinbefore mentioned together with any moneys that may have been paid by him to the said Government of Madras under and by virtue of those presents.

In witness whereof the said has hereunto set his hand and seal the day and year first above written.

The schedule above referred to

Signed, sealed and delivered by the above named in the presence of . . . .

G.O. Ms. 2065, Rev., d. 17-5-57.

FORM No. 24.

Form of cancellation notice.

The Government cancel the proceedings under the Land Acquisition Act, 1894 (Central Act I of 1894), as subsequently amended for the acquisition of lands specified below, undertaken, in pursuance of Government, Department Notification No. dated published at page of Part I of the *Fort St. George Gazette*, dated, as the lands in question have since been found to belong to the Government/devolved on the Government, and no acquisition proceedings are necessary or applicable.

District

Taluk

Village

Description of land, wet or dry, inam or poramboke with survey or Paimash No.

G.O., 2913, Press Rev., d. 11-10-54. G.O. Ms. 2065, Rev., d. 17-5-57.

APPENDIX XIII.

THE MADRAS CITY IMPROVEMENT TRUST ACT XVI OF 1945.

* * *

Matters to be provided for by improvement scheme.

34. An improvement scheme may provide for all or any of the following matters, namely :—

(*a*) The acquisition by purchase, exchange or otherwise of any property necessary for or affected by the execution of the scheme ;

(*b*) The re-laying out of any land comprised in the scheme ;

(*c*) the redistribution of sites belonging to owners of property comprised in the scheme ;

(*d*) the closure or demolition of dwellings or portions of dwelling unfit for human habitation ;

(*e*) the demolition of obstructive buildings or portions of buildings ;

(*f*) the construction and reconstruction of buildings ;

(*g*) the sale, letting, or exchange of any property comprised in the scheme ;

(*h*) the construction and alteration of streets and back lanes ;

(*i*) the draining, water-supply and lighting of streets so constructed or altered ;

(*j*) the provision of open spaces for the benefit of any area comprised in the scheme or any adjoining area and for the enlargement of existing open spaces and approaches ;

(*k*) the provision of sanitary arrangements required for the area comprised in the scheme, including the conservation of and prevention of injury or contamination to rivers or other sources and means of water-supply ;

(*l*) the provision of accommodation for any class of the inhabitants

(*m*) the advance of money for the purposes of the scheme ;

(*n*) the provision of facilities for communication ;

(*o*) the reclamation or reservation of land for market gardens, afforestation, the provision of fuel and grass supply, and other needs of the population ;

(*p*) any other matter for which, in the opinion of the Government, it is expedient to make provision with a view to the improvement of any area comprised in the scheme or of any adjoining area or the genaral efficiency of the scheme ;

Rules have been framed under section 55 (1) of the Land Acquisition Act prescribing the procedure to be adopted to give full effect to the spirit of the amending Act, and these have the force of law. They have been further supplemented by executive instructions which though not having the force of law, yet bind the officers of the Government in their land acquisition work.

(G.O. Ms. No. 2475, Revenue, dated 4th March 1946.)

Appx. XIII.

Re-building scheme.

37. (1) Whenever it appears to the Board that any area is an insanitary area within the meaning of the preceding section and that having regard to the comparative value of the buildings in such area and of the sites on which they are erected, the most satisfactory method of dealing with the area or any part thereof is a re-building scheme, the Board may pass a resolution to that effect, and shall then proceed to frame a scheme in accordance with the provisions of this section.

(2) A re-building scheme may provide for

(*a*) the reservation of streets, lanes and open spaces and the enlargement of existing streets, lanes and open spaces to such an extent as may be neeessary for the purposes of the scheme;

(*b*) the re-laying out of the sites of the area upon streets, lanes or open spaces so reserved or enlarged;

(*c*) the payment of compensation in respect of any such reservation or enlargement, and the construction of the streets, lanes and open spaces so reserved or enlarged;

(*d*) the reconstruction, alteration or demolition of the existing buildings and their appurtenances by the owners, or by the Board in default of the owners, and the erection of buildings in accordance with the scheme by the said owners or by the Board in default of the owners, upon the sites as defined under the scheme;

(*e*) the advance to the owners, upon such terms and conditions as to interest, sinking fund and otherwise as may be provided under the scheme, of such sums as may be necessary to assist them to reconstruct or alter existing buildings or to erect new buildings in accordance with the scheme;

(*f*) the acquisition by the Board of any site or building comprised in the area included in the scheme.

Street scheme.

39. (1) Whenever the Board is of opinion that for the purpose of—

(*a*) providing building sites, or

(*b*) remedying defective ventilation, or

(*c*) creating new or improving existing means of communication and facilities for traffic, or

(*d*) affording better facilities for conservancy,

it is expedient to lay out new streets or alter existing streets (including bridges, causeways and culverts) in any area, the Board may pass a resolution to that effect, and shall then proceed to frame a street scheme for such area.

(2) A street scheme may within the limits of the area comprised in the scheme, provide for the following matters :—

(*a*) the acquisition of any land which will, in the opinion of the Board, be necessary for its execution;

(*b*) the relaying out of all or any of the lands so acquired including the construction and reconstruction of buildings by the Board or by persons authorized by the Board in that behalf and the laying out construction and alteration of streets and thoroughfares;

(*c*) the draining, water-supply and lighting of streets and thoroughfares so laid out, constructed or altered;

(*d*) the raising, lowering or reclamation of any land vested in or to be acquired by, the Board for the purposes of the scheme;

Appx. XII.

(e) the provision of open spaces for the better ventilation of the area comprised in the scheme;

(f) the acquisition of any land adjoining any street, thoroughfare, or open space to be formed under the scheme;

Deferred street scheme

40. (1) Whenever the Board is of opinion that it is expedient for any of the purpose mentioned in section 39 to provide for the ultimate widening of any street by altering the existing alignments of such street to improved alignments to be prescribed by the Board, but that it is not expedient immediately to acquire all or any of the properties lying within the proposed improved alignments, the Board if satisfied as to the sufficiency of its resources, may pass a resolution to that effect and shall proceed to make a scheme to be called a "deferred street scheme" prescribing an alignment on each of side of the street.

(2) A deferred street scheme shall provide for—

(a) the acquisition of the whole or any part of any property lying within the prescribed street alignments within the time-limit specified in the scheme which may be extended by the Government;

(b) the-laying out of all or any such property, inculding the construction and reconstruction of buildings by the Board or by any other person, and the formation and alteration of street;

(c) the draining water-supply and lighting of the streets so formed or altered.

(3) After a deferred street scheme has been sanctioned by the Government—

(a) no person shall, except with the written permission of the Board, erect, re-erect, add to or alter any building or wall so as to make the same project into the prescribed alignment of the street;

(b) if the Board fails to acquire or to institute proceedings for the acquisition of any property within the prescribed alignment of any street, within the time-limit specified in the scheme or extended by the Government, the owner of such property may at any time thereafter, give the Board notice, requiring it to acquire or to institute proceedings for the acquisition of such property before the expiration of six months form the data of such notice, and thereupon the Board shall acquire, or institute such proceedings and acquire the property accordingly; and if the Board fails to do so, it shall pay reasonable compensation to the owner for any damage sustained by him in consequence of such failure;

(c) before proceeding to acquire any property lying within the prescribed alignment of the street [other than property regarding which it has received a notice under clause (b)] the Board shall give six months' notice to the owner of its intention to acquire such property;

Madras Act IV of 1919.

(d) notwithstanding anything contained in the Madras City Municipal Act, 1919, the Corporation shall not have power to prescribe any alignment of the street within the limits of the scheme, and any such alignment previously prescribed within such limits shall cease to be the alignment of the street.

Power to purchase or lease by agreement.

70. The Board may enter in to an agreement with any person for the acquisition from him by purchase, lease or exchange, of any land which the Board is authorised to acquire, or any interest in such land.

Appx. XIII.

I of 1984. Power to acqvire land under, the Land Acquisition Act, 1894.

71. The Board may, with the previous sanction of the Government, acquire land under the provisions of the Land Acquisition Act, 1894, for carrying out any of the purposes of this Act.

Tribunal to be constituted.

72. The Government may if they think fit, constitute a Tribunal as provided in section 74 for the purpose of performing of functions of the Court in reference to the acquisition of
I of 1984. land for the Board under the Land Acquisition Act, 1894.

I of 1984. Modification of the Land Acquisition Act, 1894.

73. For the purpose of acquiring land for the Board under the Land Acquisition Act, 1894—

(*a*) the said Act shall be subject to the modifications specifed in the Schedule; and

(*b*) in case a Tribunal is constituted under section 74—

(i) the Tribunal shall (except for the purposes of section 54 of that Act) be deemed to be the Court, and the President of the Tribunal shall be deemed to be the Judge thereof;

(ii) the President of the Tribunal shall have power to summon and enforce the attendance of witnesses, and to compel the production of documents, by the same means and (so far as may be) in the same manner, as is
V of 1908 provided in the case of a Civil Court under the Code of Civil Procedure, 1908; and

(iii) the award of the Tribunal shall be deemed to be the award of the
I of 1894. Court under the Land Acquisition Act, 1894, and shall be final.

Constitution of Tribunal.

74. (1) The Tribunal shall consist of three members, namely, a President and two assessors.

(2) The President of the Tribunal shall be either—

(*a*) a member of the Indian Civil Service or of a Provincial Civil Service, of not less than ten years' standing in such service, who has, for at least three years, served as District Judge or held judicial office not inferior to that of a Subordinate Judge; or

(*b*) a barrister, advocate or pleader of not less than ten years' standing, who has practised as an advocate or pleader in the High Court of Judicature at Madras.

(3) The President of the Tribunal and one of the assessors shall be appointed by the Government, and the assessors shall be appointed by the Corporation:

Provided that if the Corporation fails to make an appointment within one month after it is required so to do by the Government, the appointment shall be made by the Government.

(4) No person shall be eligible for appointment as a member of the Tribunal if he is a Trustee or is, for any of the reasons mentioned in section 7, disqualified for appointment as a Trustee.

(5) The term of office of each member of the Tribunal shall be three years; but any member shall, subject to sub-section (4), be eligible for re-appointment at the end of that term.

(6) The Government may, on the ground of incapacity or misbehaviour, or for any other good and sufficient reason, remove any member of the Tribunal from office.

(7) Every vacancy, whether permanent or temporary, in the office of a member of the Tribunal shall be filled in accordance with the provisions of sub-section (3). Appx. XIII.

(8) All appointments made under this section shall be notified in the *Fort St. George Gazette.*

Remuneration of members of Tribunal.

75. A member of the Tribunal shall be entitled to receive such remuneration, by way of salary or fees, or both, as a Government may prescribe.

Officers and servants of Tribunal.

76. (1) The president of the Tribunal shall, from time to time, prepare a statement showing—

(*a*) the number and grades of the clerks and other officers and servants whom he considers should be employed for carrying on the business of the Tribunal,

(*b*) the amount of the salary to be paid to each such officer and servant, and

(*c*) the contribution payble under section 142 in respect of each such officer or servant of who is a servant of the Crown.

(2) All statements prepared under sub-section (1) shall be subject to the previous sanction of the Government.

(3) The President of the Tribunal shall, with the previous sanction of the Government, make rules—

(i) for regulating the grant of leave of absence, leave allowances and acting allowances to the officers and servants of the Tribunal:

Provided that a servant of the Crown employed as an officer or servant of the Tribunal shall not be entitled to leave or leave allowances other wise than as may be laid down in the conditions of his service under the Crown relating to transfer to foreign service;

(ii) for establising and maintaining a provident to authority fund, for compelling all or any of the officers or servants of the Tribunal (other than any servant of the Crown in respect of whom a contribution is paid under section 142), to subscribe to such fund, at such rates and subject to such conditions as may be prescribed and, with the sanction of the Board, for supplementing such subscriptions out of the funds of the Board;

(iii) for determining the conditions under which the officers and servants of the Tribunal, or any of them, shall on retirement receive gratuities or compassionate allowances and the amount of such gratuities and compassionate allowances:

Provided that it shall be at the discretion of the Tribunal to determine whether all such officers and servants or any and, if so, which of them, shall become entitled on retirement to any such gratuities or compassionate allowances as a foresaid.

(4) Subject to any rules made under sub-section (3) and for the time being in force, the power of making appointments and promotions to posts in the service of the Tribunal, of granting leave to officers and servants holding such posts, of censuring, fining withholding promotion from, reducing suspending, removing or dismissing such officees and servants for any breach of departmental rules or discipline, or for carelessness, unfitness, neglect of duty as other misconduct and of discharging such officers and servants from the service of the tribunal for any other reason, shall be exercised by the President of the Tribunal.

Appx. XIII.

77. The amount necessary for the payment of remuneration, salaries, leave allowances and acting allowances in accordance with sections 75 and 76 shall be provided by the Board.

Payment by Board on account of Tribunal.

78. (1) The President of the Tribunal may, from time to time, with the previous sanction of the Government, make rules not repugnant to the Code of Civil Procedure, 1908, for the conduct of business by the Tribunal.

V of 1908. Power to make rules for Tribunal.

(2) All such rules shall be published in the *Fort St. George Gazette.*

79. (1) For the purpose of determining the award to be made by the Tribunal under the Land Acquistion Act, 1894—

I of 1894. Award of Tribunal how to be determined.

(*a*) if there is any disagreement as to the measurement of land, of the amount of compensation or costs to be allowed, the opinion of the majority of the members of the Tribunal shall prevail;

(*b*) questions relating to the determination of the persons to whom compensation is payable or the apportionment of the compensation, may be tried and decided in the absence of the assessors is the President of the Tribunal considers their presence unnecessary; and when so tried and decided, the decision of the President shall be deemed to be the decision of the Tribunal;

(*c*) not withstanding anything contained in the foregoing clauses, the decision on all questions of law and procedure shall rest solely with the President of the Tribunal.

(2) Every award of the Tribunal, and every order made by the Tribunal for the payment of money, shall be enforced by the Court of Small Causes at Madras as if it were a decree of that Court.

If any land in respect of which the payment of a betterment fee has been accepted in pursuance of sub-section (3) of section 81 of has been made after its determination under section 82, or in respect of which an agreement regarding the betterment fee has been executed under section 86, be subsequently required for any of the purposes of this Act, the payment or agreement shall not be deemed to prevent the acquisition of the land in pursuance of a fresh declaration published under section 6 of the Land Acquisition Act. 1894.

Agrement of payment not to bar acquisition under a fresh detlaration.

I of 1894.

The Schedule.

[Referred to in section 73 (*a*).]

Further modifications in the Land Acquisition Act, 1894.

1. After clause (*e*) of section 3 of the Land Acquisition Act, 1894 (hereinafter in this Schedule referred to as " the said Act "), the following clause shall be deemed to be inserted, namely :—

I of 1894.

"(*ee*) the expression 'local authority' includes the Board for the of Trusteed Improvement of rhe City of Madras, constituted under section 3 of the Madras Improvement Trust Act, 19 45".

2. (1) The first publication of a notice of an improvement scheme under section 47 of the Madras City Improvement Trust Act, 1945, shall be substitute for and have the same effect as publication in the official gazette and in the locality of a notification under sub-section (1) of section 4 of the said Act, except where a notification under sub-section (1) of section 4 or a declaration under section 6 of ths said Act has been previously made and is in force.

(2) Proceedings under section 49 and sub-section (1) of section 51 of the Madras City Improvement Trust, 1945, shall be substituted for and have the same effect as proceedings under section 5-A of the said Act. **Appx. XIII.**

(3) Subject to the provisions of paragraphs 6 and 7 of this Schedule the issue of a notice under cluase (c) of sub section (3) of section 40 of the Madras City Improvement Trust Act, 1945, in the case of land proposed to be acquired in pursuance of that clause, and in any other case the publication of a notification under section 53 of that Act shall be substituted for and have the same effect as a declaration under section 6 of the said Act, except where a declaration under the last-mentioned section has been previously made and is in force.

3. In section 15 of the said Act, for the word and figures " and 24 " the figures, word and letter " 24 and 24-A " shall be deemed to be substituted.

4. In sub-section (3) of section 17 of the said Act, after the word and figures " section 24 ", the words, figures and letter " or section 24-A " shall be demeed to be inserted.

5. After section 17 of the said Act, the following section shall be deemed to be inserted, namely :—

Transfer of land to Board.

17-A. In every case referred to in section 16 or section 17, the Collector shall, upon payment of the cost of acquisition, make over charge of the land to the Board, and the land shall thereupon vest in the Board, subject to the liability of the Board to pay any further cost, which may be incurred on account of its acquisition."

6. (1) In sub-section (1) of section 13 of the said Act, for clauses *first* and *sixthly* the following clauses shall respectively be deemed to be substituted, namely :—

" first, the market value of the land—(*a*) at the date of the issue of the notice under clause (*b*) of sub-section (3) of section 40 of the Madras City Improvement Trust Act, 1945, in case the land is proposed to be acquired in pursuance of that clause and

(*b*) at the date of the first publication of the notice under section 47 of that Act, in any other case ;

" Sixthly, the damage (if any) bona fide resulting from diminution of the profits of the land between the date referred to in paragraph (*a*) or paragraph (*b*), as the case may be, of clause first, and the date on which the collector takes possession of the land ".

(2) In the same action, to sub-section (2), the following provision shall be deemed to be added, namely :—

" Provided that this sub-section shall not apply where the land acquired is situated in an area which is declared by the Provincial Government to be congested or slum area and the land is not in the actual possession of the owner ".

(3) In the same section, after sub-section (2), the following sub-section shall be deemed to be added, namely.—

" (3) For the purposes of clause kist of sub-section (1) of this section—

(*a*) if the market value of the land has been increased or decreased owing to the land falling within or near to the alignment of a projected public street so much of the increase or decrease as may be due to such cause shall be disregarded.

(*b*) if any person, otherwise than in accordance with the provisions of this Act, erects, re-erects, adds to, or alters any wall or building so as to make the same project into the street alignment or beyond the building line prescribed by any scheme made under the Act, than any increase in the market vatue resulting from such errection, re-errection or alteration shall be disregarded ;

(*c*) if the market value is specially high in consequence of land being put to a use which is unlawful or contrary to public policy, that use shall be disreganred and the market value shall be deemed to be the market value of the land if put to ordinary use ;

(*d*) if the market value of any building is specially high in consequence of the building being so overcrowded as to be dangerous to the health of the inmates, such over-crowded shall be disregarded, and the market value shall be deemed to be the market value of the building if occupied by such number of persons only as could be accommodated in it without risk or danger from over crowding :

Provided that clauses (*c*) and (*d*) shall not apply in the case of a building which is in the actual occupation of the owner."

Appx. XIII.

7. For clause seventhly of Section 24 of the said Act, the following clause shall be deemed to be substituted, namely :—

"Seventhly, any outly on the additions or improvements to land acquired, which was incurred after the date with referance to which the market value is to be determined unless such additions or improvements were necessary for the maintenance of any building in a proper state of repair."

8. After section 24 of the said Act, the following section shall be deemed to be inserted, namely .—

Further provisions for determining compensation.

"24-A. In determining the amount to be awarded for any land acquired for the Board under this Act, regard shall also be had to the following provisions, namely :—

(1) When any interest in any land acquired under this Act has been required after the date with reference to which the market value is to be determined, no separate estimate of the value of such interest shall be made so as to increase the amount of compensation to be paid for such land.

(2) If, in the opinion of the Court, any building is in a defective state from a sanitary point of view, or is not in a reasonably good state of repair, the amount of compensation shall not exceed the sum which the Court considers the building would be worth if it were put into a sanitary condition or into a reasonably good state of repair, as the case may be minus this estimated cost of putting it into such condition or state.

(3) If, in the opinion of the Court, any building, which is used or is intended or is likely to be used for human habitation, is not reasonably capable of being made fit for humau habitation, the amount of compensation shall not exceed the value of the materials of the building, mints the cost of demolishing the building."

9. After section 48 of the said Act, the following section shall be deemed to be inserted, namely :—

Compensation to be awarded when land not acquired within two years.

"48-A. (1) Where the Collector has not made an award under section 11 in respect of any land within a period of two years from the date of the publication of the declaration under section 6 or of the issue of a notice undar clause (c) of sub-section (3) of section 40 of the Madras City improvement Trust Act, 1945, or of the publication of a notification under the section 53 of that Act, as the case may be, the owner of the land shall, unless he has been responsible for the delay to a material extent, be entitled to receive compensation for the damage suffered by him in consequence of the delay.

(2) The provisions of part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section."

(G.O. Ms. No. 2475, Revenue, dated 14th November 1960.)

M
Z2MCα:322
N61
148467
2.6
600 008